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19 November 1976

TRANSLATIONS ON EASTERN EUROPE  
POLITICAL, SOCIOLOGICAL, AND MILITARY AFFAIRS  
No. 1321

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## INTERNATIONAL AFFAIRS

### IDEOLOGICAL STRUGGLE TO CONTINUE IN DETENTE

Budapest PARTELET in Hungarian No 10, Oct 76 pp 39-45

[Article by Laszlo Nagy: "Ideological Struggle and Detente"]

[Text] Detente has become the new principal trend of the development of international relations and is paving the way for the more and more complete unfolding of the policy of peaceful coexistence. The Helsinki Conference on European Security and Cooperation has been an important milestone in this process. International imperialism has been forced to recognize also officially, de jure, a truth that practice had asserted already earlier: that the socialist countries' existence was an unalterable fact, and that the capitalist countries had to coexist with them on our earth.

However, this forced realization has not taken off the agenda the struggle between capitalism and socialism, respectively between imperialism on the one hand, and the national liberation movement and the international communist and working-class movement on the other. But the forms and methods of this struggle have changed. Ideological struggle, propaganda and agitation, i.e., planned and purposeful struggle for the minds and hearts of the people, have shifted increasingly to the forefront.

After the Helsinki Conference, international imperialism made new attempts to misinterpret certain statements in the Final Act, to distort the objective and purpose of the socialist countries' consistent peace policy, to denigrate the socialist countries. In this way international imperialism is striving to mislead its own masses, and possibly to influence also the mentality of the people living in the socialist countries.

The exchange of experience among the socialist countries, and their coordinated course of action play an important role in repelling the ideological and propaganda attacks of the imperialists, in strengthening the process of detente, and in ensuring the external conditions for social progress. In the following we will discuss some timely questions of ideological struggle.

### Capitalism or Socialism Still Remains the Main Question

The main content of imperialism's ideological attacks is anticommunism. Essentially anticommunism is the entire system of political, economic and ideological struggle that imperialism is waging against Marxism-Leninism and its

real vehicles: the socialist countries' community, and the communist and worker parties. In the focus of this struggle are attacks against socialism, against the community of socialist countries in particular. A concentrated expression of anticommunism is anti-Sovietism whose planned and purposeful target is the Soviet Union, the greatest force of peace and social progress.

The socialist countries' indisputable economic, scientific and cultural results are influencing also the bourgeois world, causing a strong polarization of bourgeois ideology. Several viewpoints have developed regarding the socialist countries. The trends that developed amidst the tension of the cold war are beginning to lose ground; they regarded socialism as totalitarianism, a result of violence against human nature, from which the people living under it had to be liberated. Today the picture that bourgeois ideology forms of us is determined primarily by the different versions of the convergence theory, which attempt to analyze economic growth, industrial development and social progress independently of the social system's fundamental characteristics. On this basis they come to the conclusion that identical or similar processes are taking place in both world systems. In the final outcome, only the convergence and merger of the two world systems will be possible in a joint "industrial," "postindustrial" or perhaps "service" society. The convergence theories represent bourgeois ideology's most refined answer to the fundamental principle of Marxism-Leninism that the main content of our time is transition from capitalism to socialism, and that the main contradiction of our time (through the resolution of which the transition is being realized) is between the two world systems.

The radical shift in the international balance of power is noticeably reflected in bourgeois ideology. The peoples of the socialist countries were to have been "liberated" from totalitarianism and led back to the "prosperity and freedom" of capitalism. The theory of convergence, however, directly renounces any attempt to emphasize the conflict and differences between the two social systems, to dwell on the question of which social system is the better one. In fact, this is a question that bourgeois ideology is striving to avoid. Because, parallel with the growing successes of socialism, ever-wider masses are recognizing the cancers of capitalism: the exploitation, unemployment, depression, moral decline, humiliation of the individual, and growing violence. These are social ills that the relatively high consumption level of certain exploited strata cannot and does not cure.

The fundamental task of socialist ideology stems from this situation: we must not let ideological struggle become sidetracked. We must keep on the agenda the fundamental question: in what respects does socialism differ from capitalism? Which one gives man a fuller life, taking into consideration all the components of human life: politics, society, the economy, culture, civilization, the formation of consciousness, public life, the raising of children, etc. In this comparison the superiority of socialism is indisputable. A key task of our agitation and propaganda is to prove this fact convincingly. Such a comparison not only affects the consciousness of the masses living in the capitalist world; it also makes the citizens of the socialist countries, particularly their youth, aware of the advantages and opportunities that stem from the socialist nature of our social system,

and which they tend to regard as "natural" specifically because they have become accustomed to these advantages and opportunities as commonplace, whereby recognition willy-nilly diminishes of the fact that these are "natural" only under socialism.

#### Ideological Struggle, a Reflection of the Social Processes

A distinguishing feature of the propaganda campaign that the imperialists unleashed after the Helsinki Conference is that individual elements of the political superstructure were shifted to the forefront and primarily the Soviet Union was attacked with charges of violating so-called "human rights" and of lacking democracy.

Bourgeois ideology is striving to compare bourgeois democracy and socialist democracy from the viewpoint of the system of institutions under political pluralism that is characteristic of capitalist society, unless the bourgeoisie rules by fascist methods.

The answer to the problem of political pluralism, i.e., to the existence or nonexistence of parties advocating conflicting political programs and objectives, is unambiguously clear: in the period of building advanced socialism there no longer are antagonistically conflicting class and stratum interests, and therefore there is no basis for the existences of several political parties that reflect conflicting class and stratum interests. Socialist democracy has developed on the basis of ever-stronger national unity and is promoting the realization of class, stratum, group and individual interests, within the primary assertion of society's interest. Specifically the absence of antagonistic class conflicts, and of the conflicting political trends reflecting these class conflicts, has created real, actual and "true" democracy in the socialist countries. This has given every citizen equal opportunity to develop his personal abilities and, independently of his abilities, to participate as a citizen of equal rank, with equal rights, in the management of socialist society and of its every public administrative and production unit: city, community, village, factory and production cooperative.

In our propaganda proving the superiority of socialist democracy we may justifiably refer to the facts of socialist equality, of distribution in accordance with the quality and quantity of work performed, of advancement commensurately with one's abilities, of participation in public life, and of organized state welfare. All these facts jointly are helping to realize mankind's 1000-year-old dream of real social and human equality. In socialist society the opportunities for advancement are open to everyone, regardless of origin and wealth. Figuratively speaking, in socialist society every private not only carries a field marshal's baton in his pocket, but in terms of democratic opportunities every private is also a real field marshal.

Ideological struggle is not simply an activity in the sphere of consciousness, rather it is always a true or distorted reflection of the real social processes in one's consciousness. From the basic Marxist principle that social being determines social consciousness there follows also the practical political and ideological conclusion that the struggle against bourgeois ideology must be waged not only with ideological influence in the narrower

sense, but also by perfecting the social conditions under socialism. An essential prerequisite for overcoming bourgeois and petit-bourgeois views is to build an advanced socialist society, and to solve the political, economic, social, scientific, cultural and educational tasks as quickly and as effectively as possible. The stronger the socialist countries' internal social unity, the more readily they will shed the imperialist attempts to undermine them, and the more we can and must popularize socialism's positive example outward, in the interest of convincing the masses living in the capitalist countries. Simultaneously this is also a prerequisite for forcing the bourgeoisie on the defensive, to defend itself (if it can) against the spreading acceptance of socialism's truths.

#### Ideological Content of Peaceful Coexistence

From the viewpoint of mankind, one of the greatest achievements of the coordinated international activity by the Soviet Union and the community of its allied socialist countries has been the avoidance so far of a thermonuclear world war, the curbing of the extreme imperialist circles that want to unleash a new world war. Imperialism's extreme anticommunist propaganda gradually is losing its once effective opportunities for influencing its own masses with slander and libel. Without running the risk of being unmasked immediately, this propaganda no longer can say that the socialist countries want war. Nor can it contend that the policy of peaceful coexistence is a "tactical trick" of the socialist countries, because the leaders of the greatest capitalist countries, including the United States, have been forced to recognize also in official international documents certain basic principles of this policy.

Imperialist propaganda is now attacking the socialist countries' foreign policy from a different direction. It has been compelled to develop certain philosophical and political principles for peaceful coexistence. Just as in the past the best imperialist "brains" attempted to confine war to rules of the game accepted by both sides, now they are attempting to attach the policy of peaceful coexistence to conditions whose "observation"--naturally, by the other side, the Soviet Union--would enable international imperialism to retain and even broaden its rule. From this approach there follows--as the "peace" variant of the previous theory of limited war--the principle of "limited" peaceful coexistence, in other words, peaceful coexistence on the basis of "mutual restraint."

This principle contains the following propositions and demands:

That peaceful coexistence means the maintenance of the present social status quo, in other words, the conservation of capitalist and neocolonial conditions outside the socialist world system. If this social status quo is violated, that is the fault of the socialist countries which thereby have violated the principles of peaceful coexistence. On this basis bourgeois propaganda has linked to peaceful coexistence, and even to the final act of the Helsinki Conference, the downfall of Portuguese fascism, the creation of the People's Republic of Angola, and even the election victories of our fraternal parties in Italy and France, claiming that all this "violated" the principle of peaceful coexistence;

That peaceful coexistence is a one-way street, advantageous only to the Soviet Union. For these advantages the Soviet Union must pay with the abolition of the alleged "rigidities" in its internal social system, and with "self-restraint" in the unfolding international crises, otherwise it cannot count on any economic cooperation with the "West." These views reflect not so much the maintenance of the status quo, rather a desire to alter it in imperialism's favor.

The standpoint of bourgeois ideology masked in "ultraleft" guise is as follows: Peaceful coexistence might be advantageous economically, but politically and ideologically it is unquestionably detrimental to socialism, and to the entire world revolutionary process in particular. Actually here, in the analysis of the "ultraleft" views, we are able to pinpoint imperialism's objectives. Recognition of the principle of peaceful coexistence by the imperialists is based on the realization that a permanent balance of power has developed between the two world systems. Imperialism will always try (although its efforts in this direction are becoming increasingly unrealistic) to change this balance of power in its own favor. Today it is entirely obvious that this cannot be achieved in the military field: from national incomes that are smaller, the Soviet Union and the Warsaw Pact countries have always been able to ensure up to now strategic and tactical military parity with the United States and NATO. Preference in imperialist strategy has therefore been given to undermining the unity of the three forces of world revolution, as a long-range plan for altering the developed international balance of power. The ideological and propaganda attacks against the socialist policy of peaceful coexistence are intended to serve this very purpose.

The record of the Berlin Conference of the European Communist and Worker Parties emphasizes: "The policy of peaceful coexistence does not mean at all the political and social status quo of the various countries; to the contrary, it provides the most important prerequisites for unfolding the struggle of the working class and of all democratic forces, for the assertion of every people's inalienable right to freely choose the road of its development and to proceed along this road, furthermore for the struggle against monopolies and for socialism."

The change in the international balance of power is perceptible mostly in the European arena. Specifically this is reflected in the Helsinki documents. Various conclusions follow from this fact. First of all the conclusion that in practically every capitalist country in Western Europe the opportunities for the above-ground operation of our fraternal parties are improving further. Their influence on the masses is widening, and they are coming ever closer to becoming real factors in government and the exercise of power. Amidst the conditions of intensifying political and ideological struggle between the two world systems, the successful and effective strategy and tactics against monopolies and capitalism take into consideration, on the one hand, the conditions of the struggle between the two world systems and, on the other hand, the historical road that the socialist countries have traveled, together with the experience they acquired along this road.

Bourgeois propaganda and ideology are attempting to create confusion in this respect and to curb the further gains of the communist parties in Western Europe, by overemphasizing the differences that actually exist in the level of economic development, and in the level of industrial and technical development in particular, between the Western European countries of today, on the one hand, and tsarist Russia of 1917 and the Eastern European people's democracies of 1947-1948, on the other hand. Referring in this way to seemingly "objective" foundations, bourgeois propaganda and ideology deny the importance of the generally valid experience accumulated in the course of gaining power and building a socialist society.

#### Internationalist Treatment of Debate Within the Movement

Within the international communist movement--due specifically to its diversity and size, covering all continents--there may be different views on the road and mode of achieving a socialist society. Such differences of opinion are normal in a healthy movement. And it is likewise normal that when such differences of opinion arise, they must be resolved through comradely debate between equals, on the basis of Marxism-Leninism. But the bourgeoisie would not be what it is if it did not attempt to forge for itself from such debates an ideological and propaganda weapon, and to drive a wedge between the fraternal parties struggling for power and the ones already in power. The very limited effect of these efforts is best demonstrated by the success of the Berlin Conference of the European Communist and Worker Parties. The fraternal parties are in full agreement on the basic tasks of the international struggle against imperialism, for European peace and security, for peaceful coexistence and the intensification of the process of international detente. It is the task of our ideological and propaganda activity to separate from the antagonism between bourgeois and socialist ideology the ideological and political differences of opinion within the communist movement, differences that may stem from the individual parties' different situation and the different conditions of their struggle, as well as from objective and subjective causes.

As a result of the radical shift in the international balance of power, and of the gains by the progressive forces in the wake of this shift, in recent years the political and social influence of the social democratic parties in Western Europe has increased. In the countries where they belong to the opposition, circumstances have compelled them not to raise insurmountable barriers to labor and left-wing unity, because only in this way can they hope to come closer to forming a government.

In several countries the monopoly capitalist bourgeoisie has been forced to maintain its class rule with social democratic governments or with social democratic participation. Under the pressure of internal and external class forces, the social democrats in power have become in many respects advocates of detente and of East-West relations. They foster and strengthen ties with the socialist countries' communist parties, while at home they oppose the communist party and at times even pursue an open anticommunist policy in some countries. An essential characteristic of this policy is the effort

to actively spread social democratic ideology, possibly also in the socialist countries, while recognizing and supporting the policy of detente and relying also on the confidence gained from this support.

The socialist countries are striving to develop cooperation with all those social democratic parties--whether in opposition or in government--that support detente and oppose right-wing and fascist trends, in the interest of the progressive movements. The fostering of such relations is one of our important interests, but its realization does not depend on us alone. In this way we are objectively strengthening the unity of the left-wing forces in the developed capitalist countries, and we are working also on promoting the willingness of the individual social democratic parties to establish more-fruitful cooperation also with their domestic communist parties.

Parallel with striving for political cooperation, we will continue to wage consistent political and ideological struggle against social democratic ideology. We must be able to distinguish social democratic ideology from the social democratic parties' policies, many elements of which--particularly on important international issues such as detente and the development of East-West relations--provide possibilities for fruitful cooperation.

#### Ideological Interrelations of the Third World and Social Progress

Amidst the present international balance of power, imperialism gradually is being deprived of opportunities to bar militarily the social progress in the countries of the so-called third world. It will suffice to cite as convincing proof the victories achieved by the peoples of Vietnam and Angola. But it would be a mistake to assume that imperialism has no other means by which to influence the development of the third world. Ideological means, and the propaganda instruments based on them, are growing in importance. And because socialism is the natural aspiration of the people living in this area (although their concepts of the essence of socialism differ), the main objective of imperialist ideology also in this area is the denigration of socialism, the distortion of its realities and policies. Lately these imperialist efforts have been enhanced considerably by Egyptian bourgeois propaganda that flares up from time to time, cooperates with American imperialism, betrays the revolutionary traditions of the national liberation movement and conducts antisocialist and anti-Soviet propaganda.

The development of the anti-imperialist national liberation movement contains numerous complicated ideological questions. First of all, the relationship between anti-imperialist nationalism and consistent social progress, which in the final outcome means socialism and communism. An important prerequisite for social progress is to oust step by step the anticommunist elements within anti-imperialist nationalism, thereby to strengthen the mass base of this ideology, and to continuously acquaint its followers with the truths of scientific socialism.

This is the more important because in themselves the third world's extremely heterogeneous socioeconomic and cultural conditions and traditions breed eclectic ideological concepts of the road to further development. This is one

and by no means negligible source of the proliferation of "African," "Asian" and other theories of socialism. Some of these theories intuitively draw closer to scientific socialism, while others represent intentional departures from it.

The world in our time is more complicated than ever before. Transition from capitalism to socialism is its main content and principal trend. Transitions from one social formation to another have always occurred through bloody wars. Only since socialism has developed into a world system is there a realistic possibility that this transition will be able to avoid thermonuclear war, civil war, and armed exportation of counterrevolution. At the same time it follows from the logic of struggle that the other forms of struggle will increase. Among them, ideological struggle will be of outstanding importance. Also in this sphere, victory will belong to socialism, for only it can transmit the objective truth to the minds and hearts of men.

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## CZECHOSLOVAKIA

### 'TRIBUNA' SCORES FRIENDLY 1968 ATTITUDES TOWARD WEST GERMANY

Prague TRIBUNA in Czech No 41, 6 Oct 76 pp 8, 9

[Article by K. Pomaizl: "On One Aspect of Nationalism: Reconciliation Had To Come"]

[Text] The rightist nationalistic character of the so-called regeneration process could not help but be expressed in its relationship to minority nationalities. Anti-minority nationalism has appeared again most conspicuously and in cruder forms "down" among the petit bourgeois masses who have considered the situation favorable for giving vent to their nationalistic prejudices and chauvinistic hates towards other nationalities and their members.

This was linked here both to the nationalism from the period of the bourgeois republic, or perhaps to traditions of still older national conflicts from the time of Austria-Hungary, and to inconsistencies and errors of our policy towards the nationalities before 1968. At complete variance with the historical situation, which had changed fundamentally as compared to 1945 or the pre-February period (minority nationalities, just as majority nationalities, by now consisted only of working people, who were participating hand in hand with the Czech and Slovak working people in the building of socialism and the building of the republic), there was a demand not for the removal of the already historically defeated concept of Czechoslovakia as a state made up of only Czechs and Slovaks, but, on the contrary, for its intensification and its consequent final development.

#### The Reform of "Inconsistencies"

Petit bourgeois nationalists supposed that the time had come to correct the "inconsistencies" of the postwar measures against the minorities (measures which had at the time a democratic character and were justified and in order to settle the conflict with the nationalities once and for all). With obvious memories of the evacuation of fascist Germans, threats about repatriation of the remaining nationalities were made--even of those who did not have anything in common with fascism and on the contrary had fought against

it. Furious attacks were made against the fact that the minority nationalities "here in our country" "have the nerve" to speak in their own language. The principle of bilingualism, etc., was assailed. Campaigns were waged for a state, i.e. imposed, language--Czech or Slovak. The campaigns sometimes acquired the character of the most petty and offensive nationalistic brawls from the times of the old Austria and sometimes threatened to turn into chauvinistic pogroms.

If in relation to the Slovaks the rightist elites tried to maintain a certain decorum of ostensible internationalism, they manifested much less interest in the problems of the minorities. It was the result of having ignored these problems and of the fact that the representatives of these elites, in their Masarykism or other shades of bourgeois ideology and political pragmatism of the rightists, who declared many a time that against "Stalinism" (in reality against Marxist-Leninist socialism) it is possible and necessary to ally oneself even with the devil. The national chauvinism "down" (especially the chauvinism towards those who could not offer any support whatsoever to the right-wing effort and who could be influenced to threaten the position of the rightists on the wave of the nationalism of the deciding, majority nations, could be of use to rightist nationalism only as long as it did not compromise the rightists too much and too soon or provided that it did not get into conflict with their [the rightists'] broader interests and plans.

That is how it was in the case of the Germans. The relationship of the rightists to them underwent an interesting metamorphosis. The Czech bourgeois and petit bourgeois were traditionally and intrinsically anti-German. This anti-German nationalism was strengthened by the peculiarity of World War II, and the struggle against fascism. That very anti-German nationalism survived even in the official notions of the post-February concept of the Czechoslovak question, which were only a slightly redone version of the Masaryk concept of the CSR without Masaryk and against Masaryk. It was also one of the sources which finally fused into the nationalistic wave of 1968. Many representatives of the right from the ranks of historians, philosophers, publicists, considered it necessary already long before 1968 to contest and correct the unauthentic and "falsified" concept of the CSR in line with the original concept, with Masaryk--i.e., from the right, systematically nationalistically.

The Masaryk republic had been, of course, nationalistically anti-German. That could not suit the rightists in the given situation--especially internationally. Their concern was to go over to the West, where today--as far as Europe is concerned--the most powerful role is played by the FRG, which is, after all, the supporter to the present time of the policies of the most powerful capitalist country--the USA. Their concern, of course, was foreign loans, a share in the "economic miracle," the establishment of a demagogic anti-communist system of bourgeois democracy, which in consideration of the Nazi past and a good economic situation, functioned for the time being most reliably precisely in the FRG.

Those with Czech nationalist attitudes who had earlier fought against German nationalistic revanchism were forced anew to reconsider and think through all contingencies. Having directed their inherent nationalism towards the East, against the USSR and the other socialist countries, they opened the floodgates towards the West to unbounded "internationalism." They began to discover the FRG and see it in an ever increasing positive light. They began to express opposition to our "nationalistic," "nationally limited," "provincial," "imposed and forced" isolation toward the West. They began anew to discover and flaunt our long-standing attachment to this West.

#### Revaluation

They vanguished the anti-German sting of the Masaryk-type nationalism as daringly as did the FRG Hitler's nazism: they pronounced it as past, and were willing to talk about its shortcomings and errors with a certain forbearance and mutual tolerance. Because "reconciliation" and "normalization" of relations with the FRG became the main thing, "certain mistakes and errors" of the evacuation began to be acknowledged--academically for the time being; Benes's nationalism was foisted upon the CPCZ (which had approached the evacuation from democratic and class positions), which action was but a short step away from connecting the whole solution of 1945 with the "harmful" influence of Stalin and the USSR and with the "errors and compromises" of the West toward it. In place of the former emphasis on national conflicts between Czechs and Germans in history, a "critical revaluation" emerged that sought out examples of real or supposed cooperation, mutual influencing, etc.

The intervention of the allied troops made it impossible to carry this reversal through to its finish. The ripening of these tendencies, therefore, could have occurred and is occurring amongst the emigration abroad. L. Pachman--just as other post-August (and earlier, post-February) emigrants--arrived quite consequently and logically at an alliance with the west-German revanchists, condemns the evacuation, adopts the revanchist arguments, pronounces the entire past of Czech politics towards the Germans a mistake, etc. Czech nationalism on the basis of its class logic ends up the same as it did years ago--in association with German fascism, in the service of the German anti-Czech imperialist nationalism and chauvinism.

Thus in place of the former nationalism, a servility and repentant confession of "sins" towards the West and especially towards the FRG has emerged. On the other side of Sumava's borders, this is being listened to and watched happily and willingly and is "richly" rewarded with garbage from the "rich" table of the FRG. Popularly it is, of course, called: "to sell oneself for a crust of bread." For the FRG it is a completely negligible trifle, from which they are trying to hammer out the maximum profit. If we realize that contemporary West German imperialism is trying to achieve by new means, through the exploitation of its economic dominance in Western Europe that which they did not succeed in doing during World War II, we will understand the wave of enthusiasm in the FRG over the so-called Prague Spring.

As Czech nationalism did not repudiate itself with regard to Slovakia or to the minorities, neither did the great German nationalism repudiate itself in its relationship to the "regeneration" process in Czechoslovakia. Newly minted, hallmarked West-German specialists in democracy, who had hardly shed their hitlerian uniforms, did not spare advice to the "democratizers" of socialism and immediately took a protectoral and mentor-like stand towards them. It is hard to forget the past!

There was much petit bourgeois naivete and narrow, stupid provincialism in the attitudes of the rightists towards the West and the West Germans, especially in the beginning. They were excited by the role which they supposed themselves to play in the world forum and in which they had cast themselves. They did everything to please the powers of the Western world. They rejoiced in the praise of their conduct. At stake in all this was nothing less than a new period of the former spurious calculations of the Beranists and the collaborators of the Protectorate. Of course the great and the powerful welcomed the breakdown of socialism. They reckoned with it coolly, however, and were not willing to get too close to its bearers. They were absolutely not ready for any "partnership." For them, the major actors of the "Prague Spring" represented clowns whom they were willing to applaud only as long as they could use them.

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CLASS AND STRATA DEVELOPMENT IN SOCIALISM ANALYZED

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[Article by Fritz-Helmut Schroeder, graduate social scientist, Central Institute for Philosophy, GDR Academy of Sciences; and Dr Rudolf Welskopf, economist, Kombinat Elektro-Apparate-Werke, East Berlin: "Aspects of the Dialectic of Social Uniformity and Variegation in the Socialist Society"]

[Text] 1. Class and Social Structure in Socialism

In recent years GDR research devoted to the social structure of the socialist society has dealt, among other matters, with the study of the internal structure of the working class and its inevitabilities as well as with specific problems of the relationship between the working class and the intelligentsia. Correct appreciation of the inevitable growth of the role of the working class is the prerequisite for an understanding of the movement and development of the social structure of the entire socialist society. Several major findings were assembled, which are highly significant for any comprehensive analysis of the social structure of the developed socialist society and the processes of adjustment among the classes and strata. Concern with social structure has thus provided Marxist-Leninist science with excellent bases enabling it to meet the new requirements arising from the necessity to research the "inevitabilities and needs of the developed socialist society and the gradual transition to communism"<sup>1</sup> Sociological research concentrates mainly on "the analysis of the basic social processes involved in the organization of the developed socialist society, especially the evolution of the working class and the expansion of its leading role in society, the adjustment of classes and strata, the development of socialist collectives and personalities, and the development of working and living conditions of specific social groups of the population."<sup>2</sup> With respect to the theoretical discernment of the development of classes and strata in socialism it is vital to base research on the premise that socialism is the first stage of the communist system of society, and that the transition to the more advanced communist stage presumes the achievement and total organization of the developed socialist society.

In socialism the class structure is the dominant and decisive basic model of the social structure. Its specific difference compared to earlier social

systems consists in the fact that, as Gleserman states, socialism "can no longer be defined as a class society because the characteristic features of a class society--the division of society into antagonistic classes and the exploitation of man by man--have been eliminated. Yet it cannot be described as a classless society, because class differences persist."<sup>3</sup> In the developed socialist society classes are no longer classes in the old meaning because their relation to the means of production is not antagonistic and one class is unable to appropriate the labor of another. However, they continue to be classes insofar as essential features differ for large groups of people, and these differences maintain their importance. They are, for instance, the role or status in the social organization of labor and social production, the type of the acquisition and the dimension of the share in the social wealth and, consequently, the respective living conditions and, finally, the interests determined by these conditions.<sup>4</sup> In this context Grundmann says: "Only by consistently upholding Lenin's definition of classes can we logically claim that the socialist society is not a class society in the original meaning of the term."<sup>5</sup> Nevertheless we do speak of the persistence of classes and strata and various significant social differences in the socialist society. "The disappearance of the most profound divisions and therefore the increase in the 'extent of the homogeneity' of society is accompanied by the numerical growth of socially significant social groups, by an increase in the complexity of the social structure. Mature socialism therefore is a society without profound social differences but with a complex multidimensional structure."<sup>6</sup> Kosolapov expresses the same thought in the following words: "Analyzing how the class features disclosed by Lenin are displayed in today's Soviet life we see that developed socialism is a society without social antagonisms, in which class barriers have been totally destroyed, social borders are extremely flexible, and citizens may freely and actively change from one social strata of working people to another."<sup>7</sup>

To the extent that, in the course of research, the attention of sociologists turned away from the definition of classes and statistical classification and toward the analysis of the dynamic of the social structure, the adjustment of classes and strata, the role in this process of the group of industrial workers as part of the working class, and other social groups, the role of the social division of labor, its historical origin and functional reproduction of the social structure became key points of the analysis. Kosolapov, for instance, writes: "...the social structure is the inevitable reflection of the division of labor in the countenance of the groups of people included in its various special sectors, and the relations of these groups of people among themselves. ...Marxists (consider) the history of the division of labor the key to the understanding of the history of social relations."<sup>8</sup> Once the crass social antagonisms are removed, which were involved in the private ownership of the means of production and in exploitation, the working class led by its Marxist-Leninist party makes immense efforts to reduce the persisting and still reproducing social differences which are closely linked to the division of labor, and both objectively and in the consciousness of the members of society still retain great influence. According to Kosolapov Soviet society is characterized also by "the relative

growth in the role of those not class-like differences in every day life, which used to be of secondary importance."<sup>9</sup> It is precisely these differences which can be explained only by way of the social division of labor and affected only by changes therein.

## 2. Division of Labor and Social Structure

The division of labor is fundamental to the dialectic development which links the movement of the productive forces with the variegation of society in classes, strata and social groups.<sup>10</sup> At a certain historical stage of development of society the division of labor produces the division into owners and nonowners. While the human production potential increases as a result of the division of labor, as a consequence of the "subsumption of individuals to the division of labor,"<sup>11</sup> the commitment of entire groups of people to certain occupations and functions, social groups and--in the case of the great social division of labor--classes and strata also reproduce simultaneously.<sup>12</sup> We summarize in the concept "great social division of labor" the most essential dimensions of the system of the division of labor: The divisions between physical and mental, material and nonmaterial work and the separation between town and country.<sup>13</sup> Historically these have resulted in socioeconomic independence and contradictions between opposing sides of social labor. Individuals subsumed in the great social division of labor occupy different positions in the social organization of labor and meet different conditions for obtaining their share of the social wealth, so that they continue objectively determined social groups. While, once exploitation was abolished, the socioeconomic nature of the division of labor changed fundamentally and was freed from antagonisms, within the framework of socialist production planned advances proceeded to the removal of social divisions between town and country, mental and physical labor and the change in the division of labor at the organizational and technological level. It is especially with respect to the last that certain technological conditions tend to reproduce, which will gradually have to be overcome by means of scientific-technological progress.

In the capitalist industrial countries this technological division of labor necessarily linked to the development of productive forces is always accompanied by strong tendencies to the alienation of man. This is due to the capitalist orientation to maximum profits. The perfection of the material-technological basis linked to the further organization of the developed socialist society signifies the gradual elimination of the conditions inherited from capitalism (including the technological division of labor), which adversely affect the development of the personalities of the working people (for example monotonous work). This complex process of historical significance proceeds before our very eyes by way of the transformation of many single operations and jobs in the course of socialist intensification and also by the transformation of entire economic sectors, such as the introduction of industrialized production methods to farming. In this connection we concur with the following interpretation: "The development of the working class is indivisibly linked to intensification. Intensification must help

improve the uniformity and solidarity of the working class. That includes the reinforcement of the social homogeneity of increasing sections of the working class, the development of a far more uniform structure of the class, the reinforcement of its fighting strength and the consolidation of its leading role."<sup>14</sup>

Significant elements of the development of classes and strata and their adjustment are linked with the development of their internal structure by the close connection between the division of labor, working and living conditions, lifestyle, the development of the personality and social structure. The working class as the leading power in the socialist society has the decisive role in all this. Due to the diversified status of its elements in the system of the social division of labor the working class is characterized by a great structural diversity in skills and education, the content and nature of labor, incomes and standard of living, social activism, and so on. Much earlier Marx remarked that "the division of labor within the same classes (produces) quite diversified methods of work."<sup>15</sup> The socialist ownership of the means of production and the resulting standardized and basic progressive economic and political interests represent overlapping elements with respect to the variegation within the working class, elements of its leading role in current development. Its internal social variegation, by the medium of the system of the social division of labor, reflects the objective development of the economic base of the socialist society. "The further development of the working class proceeds mainly in the struggle for the improvement of productivity, the realization of the scientific-technological revolution, the socialist competition, the innovator movement, the active involvement of the workers in management and planning, and the further perfection of socialist democracy."<sup>16</sup> The division of labor, therefore, is not only essential to the study of the origin and relations of classes but, in our opinion, this methodological consideration must be consistently borne in mind when subordinated structures and relations are studied, beginning with the internal subdivision of classes to and including work collectives. The social combination of labor and the resulting types of the cooperation of social groups in the reproduction process--that must be the focus of any materialist analysis of the social structure of the developed socialist society. Formal expressions of the division of labor, such as degrees of skill or professions must not be confused with its nature.

In the various forms of the production relation "division of labor" sections of the working class act in conjunction with groups of other working people in specific cooperation relations. On the basis of the uniform ownership relation to the means of production the division of labor is crucial for the internal structure and variegation of the working class--and the same applies *mutatis mutandi* to all classes of working people and to all strata. The question therefore arises what kind of work in what conditions is to be carried out by the worker as such in society, and how individuals or social groups are to be distributed with respect to the various functions. If we examine the lines of the social division of labor from this aspect, we encounter typical forms of the combination of work and the appropriate groups



of employees in every sector of the economy, every branch, every combine, even every enterprise department. We can see in every enterprise relations of basic and ancillary processes, production preparation and implementation, management and organizational processes, material production and its reflection, senior and junior management levels, and so on. These are relations arising from the social division of labor in the narrower meaning, relations with an inherent social quality by which labor assumes a widely different content, to some extent even a different social form, and in which the working people included in these relations represent social groups with different mentalities and attitudes. The classification in accordance with the nature of labor of the working people by reference to their status in the production process<sup>17</sup> or their role in the social organization of labor<sup>18</sup> is thus shown to be socially and sociologically far more relevant than other classifications, such as by branches.<sup>19</sup>

The fact that the sociostructural classification of the working people, arising from their status in the reproduction process, actually exists in the everyday practice of the enterprises, opens the way to the concrete and sociostructural ascertainment of significant processes in the development of the working class--and thereby also of the development of the social structure--which occur precisely where the most important and most productive operational sphere of the working class is situated and where, in addition, crucial forms of the alliance with the intelligentsia are realized. This enables us to start out from the main social groups of the working class and produce empirical evidence of the connection between the social division of labor and the social structure. The peculiarities of individual groups of the working class may be studied as well as those of other groups within the class structure (such as the intelligentsia). To begin with the working people in an industrial enterprise are obviously classified into blue collar workers, white collar workers and management cadres--a differentiation which appears quite natural because it carries the imprint of the great social division of labor. A further differentiation makes sense for many questions. At all times this must be based on the accomplishment of the reproduction process by way of the division of labor. Every one of the groups thus established is characterized by a specific totality of social peculiarities. They include certain occupational and training requirements as well as social attitudes. The hypothesis that the groups defined by the analytical criterion of the status in the reproduction process not only actually exist but also behave differently has been amply confirmed by comprehensive studies of the social structure of the working class in the GDR. Those working people who are assigned managerial duties in the socialist society occupy a specific status in the social system of production. Their responsible managerial and organizational work differs from, for example, the honorary social work of many working people. The results of empirical studies in turn do not admit of any other conclusion than that of accounting for managers as a specific social group which bears characteristics of the working class as well as of the intelligentsia.<sup>21</sup>

### 3. Social Uniformity and Variegation in Socialism

The real social inequality of individuals in socialism arises from the dialectic of their objective material conditions--the variegation of working conditions and work requirements in connection with the (great) social division of labor--and their subjective conditions--, the "natural privileges,"<sup>22</sup> the physical and mental inequality of the disposition and capacity of men. In answer to Dahrendorf and other bourgeois theoreticians, nobody believes in the abolition of this individual variegation. Dahrendorf holds that there must always be differences in the social influence, status and prestige of people, due to their different individual abilities and the necessity of social organization.<sup>23</sup> This argument, however, bypasses the problem: In the conditions of the private ownership of the means of production property, regardless of the abilities of its owner, confers upon him objective power over other men and the opportunity to exploit others. It is precisely the abolition of the private ownership of the means of production which permits the full development of individual abilities. The uniform socialist ownership situation and the equal political rights of men in socialism do not automatically result in social equality. Actually, in connection with the social division of labor and the differences among individuals the result is a specific type of social variegation. This represents a significant developmental contradiction in socialism. Dealing with it will gradually lead to the removal of the prevailing social inequality in the transition to the higher stage of the communist society.

The fathers of Marxism-Leninism have always coupled the concept of equality or inequality with such adjectives as political, moral, intellectual, social, economic, class-related, and so on, because they considered man as a living being, not an abstract term. Lenin expressed this very clearly: "The concepts 'differentiation,' 'variegation' and so on may assume quite different meanings, depending on the social conditions to which they are applied."<sup>24</sup> It will be necessary more thoroughly to analyze the dialectic of social uniformity and variegation in the further advance of the developed socialist society. On the basis of the socialist ownership of the means of production and constitutionally guaranteed--even more pertinent--applied basic rights of all members of society such as the equal right to work and equal pay for equal work, the equal right to education, codetermination and co-organization of social development, the equal right to participation in cultural life, leisure and recreation, medical care, and so on, we are witnessing the reduction of social differences by way of many socioeconomic development processes, and the trend to social equality is speeding up. Elements of the social equality of all members of society are developing especially in the process of the planned perfection of the socialist nature of labor. This is noticeable at many levels. It begins with the removal of differences in wealth and, by way of the development of the productive forces as a result of the scientific-technological revolution, especially mechanization and automation, leads to changes in actual working conditions. This development applies not only to the working class but more or less to all working people.

The trend to an increase in the share of creative and responsible work is a significant feature of this process. Yet scientific-technological development does not spontaneously cause the growth of the mental share in the working process, even if the socioeconomic prerequisites are present. The conscious action of people, directed to the victory of objective class interests, is an essential condition. In this context differences may actually arise and sometimes even experience expanded reproduction, because creative-intellectual work concentrates largely on scientific-technological concerns and technological production preparation. The immediate manufacturing process is still dominated by labor with sometimes much physical effort, while increasingly the unity of physical and mental work is emerging in repairs, the production preparatory departments and the spheres of the direct management of working processes and work collectives (brigade leaders, foremen). On the other hand, although administrative employees in enterprises are commonly described as "predominantly brain workers"--a term which is correct insofar as they do hardly any physical work--, the level of intellectual demand on them is sometimes lower than that on many groups of production workers. Physical work may be coupled with greater and more complex mental requirements than the so-called "mainly mental" work of a clerical worker who often does mere routine work.

To this day the social inequality of various types of work and, consequently, the different appreciation by society prevails, especially with respect to the various requirements resulting from the social division of labor on physical, mental-reproductive and intellectual-creative abilities, the level of responsibility, managerial and planning work. At the same time the common socioeconomic basis (socialist ownership), common basic interests, efforts and trends toward mastering the great social division of labor are clearly evident and sociologically demonstrable in the characteristic features of social variegation. These assertions apply to the working class and its internal variegation as well as to other classes and strata. In addition the socialist development of education strongly advances the decline of existing social differences. The high level of general education guarantees all young members of our society as the basis of ongoing education and training helps bring about increasing social equality.<sup>25</sup> We hardly need explain in detail the tremendous productive potential encouraged by such an educational process and the inestimable contribution to the development of the personalities of millions of working people.

The same right to education and training of abilities and the fundamental "equality of opportunity" of the working people is also reflected in the acknowledged greater mobility in socialist compared to capitalist countries. For example nearly 80 percent of the management cadres of a major construction plant we studied in 1970 were promoted from lower positions in the same enterprise, this means they came largely from the ranks of workers and non-managerial employees. Closely linked with technical training is the readiness to social and political activism. This is much more pronounced among those with higher qualifications. The systematic change in the working conditions of unskilled and semiskilled production workers bases on scientific-

technological progress and therefore not only provides an incentive to the acquisition of a higher standard of skills but is also an important step toward the increased dimension and effect of the social activism of these sections of the working class. Another important process of social standardization is the trend toward the politico-moral unity of the working people, in accordance with the ideology of the working class.<sup>26</sup> It is implemented on the basis of the objective coincidence of individual, collective, class-like and social interests.

It has been found, for example, that the behavioral orientation of the various social groups in the enterprise with respect to matters of socialist democracy, interest in the political life of the enterprise and the organization of socialist collective relations is predominantly uniform. One of the genuine criteria for the appraisal of such attitudes is the involvement in social activism. We find that the production workers in basic processes, for example, already contribute about a third of the total social activism in industrial enterprises, from innovator activism, honorary functions to further political education. They thus transcend the barriers of the technological determinism of work and enhance their potential in a versatile manner. And most of all they actively influence the management and planning of work and thereby help overcome the division between managers and managed.

Another significant group of problems involved in the development of social equality and variegation is that of the questions arising with respect to the distribution of the gross national product, socialist distribution according to performance and distribution by way of social consumption funds. Currently, for instance, it makes a great deal of difference whether someone is engaged in high-seas fishery, ore mining or services, in light industry or trade. For a worker in the metallurgical industry, for example, the statistics show an average monthly wage of M973, in light industry of M761<sup>27</sup> and in socialist commerce M734.<sup>28</sup> These differences in earnings result in different material living conditions, especially because the distribution by performance is unable really to take into account differences in family size. "One worker is married, the other is not; one has more children than the other, and so on and so forth. If output and therefore the share in the social consumption fund is the same, one of them in fact receives more than the other, is richer than the other, and so on,"<sup>30</sup> Marx said in his "Kritik zum Gothaer Programm" [Critique of the Gotha Program].

The question arises where in fact to locate the key points of existing social differences. By analyzing the factors of many indicates it has been possible to prove empirically that the main dimensions of the social variegation of people working in industry is currently represented by the mental effort needed for the work, the desirable and actual skills. Many functional features in their social form culminate in this, and many different types of mentality and behavior, material standards of living and so on, still depend on it. In the widest meaning this factor expresses the lingering significance of the social division between mental and physical, simple and complex work.

The social differences linked to these considerations will persist as long as and to the extent that this dimension of the division of labor continues to survive at the social level. The approach to its gradual abolition by the policy of the party of the working class is provided by the program resolved upon at the Ninth SED Congress: "The Economic and social policy of the Socialist Unity Party of Germany helps the further adjustment of classes and strata, the reduction of significant differences between physical and metal work, and the adjustment of living conditions in the cities and the countryside. It links the realization of the performance principle with the reduction of social differences."<sup>30</sup>

#### FOOTNOTES

1. Program of the Socialist Unity Party of Germany, Berlin 1976, p 46.
2. "Central Research Plan of the Marxist-Leninist Social Sciences in the GDR 1976-1980." EINHEIT, No 9/1975, p 1045.
3. G.J. Gleserman: "Der Historische Materialismus und die Entwicklung der Sozialistischen Gesellschaft" [Historical Materialism and the Development of the Socialist Society], Berlin 1969, p 123.
4. See V.I. Lenin: "The Economic Content of the Populist Line and Its Critique in Struve's Book," in V.I. Lenin, Collected Works, Vol 1, Berlin 1968, pp 425 ff; see also V.I. Lenin: "The Great Initiative," in V.I. Lenin, Collected Works, Vol 29, Berlin 1963, p 410.
5. S. Grundmann: "Arbeiterklasse, Gegenwart und Zukunft" [Working Class, Present and Future], Berlin 1975, p 65.
6. L.A. Gordon/E.W. Klopov: "The Social Development of the Working Class in the USSR," SOWJETWISSENSCHAFT. GESELLSCHAFTSWISSENSCHAFTLICHE BEITRAEGE [Soviet Science. Sociological Contributions], No 5/1972, p 487.
7. R. Kosolapov: "Problems of the Analysis of the Social Structure of Soviet Society," PROBLEME DES FRIEDENS UND DES SOZIALISMUS [Problems of Peace and Socialism], No 5/1973, p 611.
8. Ibid, p 610; see also G.J. Gleserman: "The Social Structure of the Socialist Society," EINHEIT, No 11/1968, p 1340.
9. R. Kosolapov, as before (note 7), p 612.
10. See F. Engels: "Herr Eugen Duehrings Umwaelzung der Wissenschaft" [Eugen Duehring's Scientific Revolution], in K.Marx/F. Engels, Werke, Vol 20, Berlin 1962, p 612.

11. K.Marx/F. Engels: "Die Deutsche Ideologie" [German Ideology], in K.Marx/F. Engels, Werke, Vol 3, Berlin 1958, p 50.
12. Ibid, pp 22 ff. See also F. Engels "Duehrings..." as before pp 166 ff. On the basis of property the classes have become relatively independent and enter into dialectic interrelations even within the framework of the social division of labor. In accordance with their objective interests they contribute to the stabilization, development or revolutionary transformation of production conditions--including also the division of labor.
13. The "great social division of labor" must evidently be determined historically. In early societies the division between crop farming and animal husbandry, crafts and trade, produced different methods of work, methods of acquisition, social groups and classes (see F. Engels: "Der Ursprung der Familie, des Privateigentums und des Staats" [The Origin of the Family, Private Property and the State], in K.Marx/F.Engels,Werke, Vol 21, Berlin 1973, pp 155 ff). By now, though, the above listed dimensions of the division of labor have evolved as the most significant. Managerial work has always held a special role in this historical process.
14. Collective of Authors: "Die Intensivierung der Sozialistischen Industrieproduktion und die Wachsende Rolle der Arbeiterklasse" [The Intensification of Socialist Industrial Production and the Growing Role of the Working Class], Berlin 1975, p 46.
15. K. Marx: "Die Moralisierende Kritik und die Kritisierende Moral" [Moralizing Criticism and Critical Morality], in K.Marx/F. Engels: Werke, Vol 4, Berlin 1964, p 349.
16. SED Program, p 37.
17. Groups of working people in industry corresponding to this term were introduced by M. Loetsch/H. Meyer in their article: "Social Structural Research and Management of Social Processes," in DIE ZEITSCHRIFT FUER PHILOSOPHIE No 2/1974, p 175; see also H. Meyer: "Theoretical Problems and Empirical Results of Sociological Studies of the Structure of the Working Class" in "Zur Sozialstruktur der Sozialistischen Gesellschaft" [On the Social Structure of the Socialist Society], Berlin 1974, pp 74 and 77; and M. Loetsch: "On the Social Structure of the Working Class" in "Soziologische Probleme der Klassenentwicklung in der DDR" [Sociological Problems of Class Development in the GDR], Berlin 1975, pp 97 ff.
18. In their book "The Working Class of the USSR," Berlin 1974, p 48, S.L. Senyavsky and V.B. Telpukhovsky emphasize the close connection of these categories which in our opinion, however, must not be confused with one another.

19. Of course we have no wish to belittle the specific importance of this and other subdivisions, yet it is obvious that it is more important how something is produced than what is produced. Not that aim to give the impression that this determines "the" or "the real" division of labor; after all, there are many historically based dimensions of the division of labor which cannot be reduced to a single denominator: mental/physical, material/nonmaterial, managing/carrying out, simple/complex, industrial/agricultural/commercial work, city/country, division of labor "in general" (economic sectors), specifically ("types of production"), and individually (enterprise). (See K. Marx: "Das Kapital," Vol 1, in K/Marx/F. Engels, Werke, Vol 23, Berlin 1962, pp 341-530.) It is impossible to rank the dimensions of the division of labor and its further ramifications, because they all have their own distinctive qualities. Yet they are linked, and we are concerned here to discover the junctions, determined by the standard of the reproduction process, which are important for the social structure.
  
20. For groups such as brigade leaders, foremen or engineering personnel Marx provides us with an example: "The most significant division is that between workers who are actually operating the machine tools (in addition there are some workers for watching or feeding the machine which provides the moving force) and mere helpers (...) of these machine operators. ...These main classes are joined by a numerically insignificant personnel engaged in the supervision of the machinery as a whole and in repairs, such as engineers, mechanics, joiners, and so on. This is a higher grade, partly scientifically trained, partly craft skilled working class, outside the group of factory workers and only aggregated to them. This division of labor is purely technical." (K. Marx: "Das Kapital," Vol 1, as before, p 443).
  
21. See M.N. Rutkevich: "The Social Structure of the Socialist Society in the USSR and Its Advance to Social Homogeneity," DIE ZEITSCHRIFT FÜR PHILOSOPHIE No 1/1975, p 26.
  
22. K. Marx: "Kritik des Gothaer Programms" [Critique of the Gotha Program], in K.Marx/F. Engels, Werke, Vol 19, Berlin 1962, p 21.
  
23. See R. Dahrendorf: "Vom Ursprung der Ungleichheit Unter den Menschen" [On the Origin of Inequality Among Men], Tuebingen 1966, especially pp 14, 29.
  
24. V.I. Lenin: "The Economic Content..." as before (note 4), p 427.
  
25. See A. Meier: "School and Dialectic of the Social Structure in the Socialist Society," DIE ZEITSCHRIFT FÜR PHILOSOPHIE No 10/1975, p 1333; see also: "Statistisches Jahrbuch der DDR 1973" [GDR Statistical Yearbook 1973], Berlin, p 421. In 1971 some 83 percent of GDR residents aged 18-30 years had completed at least 10 grades and/or received skilled

worker training. This percentage is considerably lower for those over 30: Some 68 percent in the age group 30-40, about 59 percent in the age group 40-50, approximately 49 percent in the age group 50-60, and about 28 percent for those over 60. At that we must remember that large sections of the older population acquired further education and skills after 1946. Women workers, especially, had a lot of catching up to do. The development of training is also reflected in the fact that in 1955 25.6 percent of production workers in socialist industry were skilled workers. The percentage had risen to 40.5 in 1964 and to 52.5 in 1970. In the centrally administered socialist industry (with a greater concentration of production) the 1973 percentage was 67.2.

26. See: SED Program, p 39.

27. "Statistisches Jahrbuch der DDR 1975" [GDR Statistical Yearbook 1975], Berlin 1975, p 128.

28. Ibid, p 248.

29. K. Marx: "Critique of the Gotha Program" as before, p 21.

30. SED Program, p 23.

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"NEW LEFT" NEEDED IN CLASS STRUGGLE--ITS PHILOSOPHICAL ERRORS ANALYZED

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[Article by Dr Herbert Crueger, Central Institute for Philosophy, GDR Academy of Sciences: "Society's Formation and Soail Totality--Critical Notes on the Revisionist Thesis of the 'Structural Revolution'"]

[Text] The theoretical discussions and the development of the philosophical-sociological interpretations of the representatives of the so-called "New Left" in the capitalist countries clearly demonstrate one fact: For the members of the petty bourgeoisie and the intelligentsia (which largely account for the social composition of these groups) the approaches to the appreciation of the nature of the revolutionary process and to action consonant with this appreciation are often complex and twisted, and for many of them the barriers to understanding erected by bourgeois ideology are well-nigh unsurmountable. As far as the Marxist-Leninists are concerned, the ideological debate does not aim to expel the New Left from the battlefields of the classes. Actually we are concerned with the necessity and possibility of involving it in the struggle for the support and expansion of the democratic rights of the working people. We are of course quite aware that some of these groups have Maoist leanings, act on behalf of the imperialist bourgeoisie and are controlled by the latter's strategists. Given the current international role of Maoism it would be illusory to assume that the groups dominated by it could possibly make a positive contribution to the class conflict.

Any critique of the theoretical conceptions developed by the representatives of the "New Left" groups which, incidentally, include some groups within social democracy, must be mainly concerned with making them, and especially the student youth ideologically influenced by them, aware of their fundamental errors and with disclosing the mistakes and sins of omission involved in the alleged "new" interpretation of Marxism, which results in distortion and corruption. We must also demonstrate that their frequently intransigent attitude toward real socialism fits all too well with the anticommunist strategy of the ruling imperialist bourgeoisie. As a result they become ideological upholders of the system which--provided we accept their subjective

honesty--they wish to combat. With these thoughts in mind I will discuss some concepts advocated by Joachim Steffen who considers himself the representative of the left in the SPD.<sup>1</sup>

The concept of the socioeconomic formation is a basic tenet of Marxist teaching, and it is so for every Marxist. The generalization inherent and achieved in this concept alone offers the opportunity to advance "from the description of social phenomena (and their appraisal from the standpoint of the ideal) to a strictly scientific analysis..."<sup>2</sup> Anyone yielding this fundamental concept of social knowledge erects his own barrier to understanding. And that is exactly what J. Steffen has done. He promotes to first place the concept of social totality which, as used by him, corresponds to Marcuse's concept of the one-dimensional society. Steffen's alienation of the concept of totality from the concept of the socioeconomic formation is vividly illustrated by his denial of the role of property. He explicitly opposes all those on the "left" who believe that the "final key to the change in the quality of social totality is the abolition of the private ownership of the means of production." Indeed he comments ironically: "Existential problems are to be solved by juridical categories."<sup>3</sup> Here Steffen unconditionally adopts Marcuse's narrow interpretation which also claims that the abolition of private property in socialism does not per se make for a fundamental difference to capitalism.<sup>4</sup> According to Marcuse the transition from capitalism to socialism is only a "quantitative change."<sup>5</sup> Marcuse attempts to explain his doctrine by the assertion that socialism is one-sidedly oriented to the development of the productive forces and thus continues the enslavement of man by the means of production. He completely disregards the question of the role of production relationships as the position of ownership of the means of production in the relationship man--means of production.

What Marcuse calls a mere "quantitative change" Steffen holds to be a mere change in juridical categories. Further errors and wrong conclusions flourish on the soil of this fundamental theoretical error. Steffen does not perceive that the ownership of the means of production is more than a juridical category. It is rather the production relationships which, as ownership relationships, may assume a juridical form and, in fact, are bound to do so in accordance with the development of class societies. After all, the juridical form serves to stabilize and sanctify them. Steffen must needs reduce the ownership of the means of production to a juridical category in order to be able to circumvent the question of the transfer of the means of production to social ownership. Can this be a tactical concession to the right SPD leadership for whom the private ownership of the means of production is a sacred cow? By no means! Steffen needs this reduction for another reason also. It is a well-known fact that in socialist countries the social ownership of the means of production assumes the juridical form of state ownership in addition to the form of cooperative ownership. In this instance the state acts as the organ of society as a whole and is led by the working class. Steffen--and this is the point where he comes very close indeed to the worst type of anticommunism--transforms the state form of total societal

ownership of the means of production into state capitalism and follows this up by concluding that no real difference exists in methods of production between the developed capitalist countries and the socialist countries. Steffen presses his readers to conclude that the struggle to transfer the means of production to social ownership makes no sense, because nothing will change in the aftermath of this transfer.

As Steffen insinuates that the abolition of the private ownership of the means of production is unimportant, we are bound to ask what the structural revolution is supposed to be about. If we disregard the general claptrap about existential changes, all that remains is state control and direction of research, crucial investments and the utilization of water, land and air.<sup>6</sup> At least Steffen accepts that this demand must be coupled with that for the "nationalization of banking."<sup>7</sup> In the summer of 1975 the left wing of the SPD succeeded in initiating the discussion of the question of state guidance of investments. In response a solid front was established in opposition. This ranged from some rightist labor union leaders via the SPD leadership to the most reactionary spokesmen of the employers organizations, which strenuously rejected any suggestion of state guidance of investments. The discussion was reduced to empty theatricality. The opponents of state guidance of investments struck the attitude of defenders of the social market economy and disguised the fact that in all advanced capitalist industrial countries the state, as an organ of the monopoly bourgeoisie, definitely influences investments by means of the instruments available to it--credit expansion and credit restriction, tax incentives, subsidies for investments, and so on. While the monopoly bourgeoisie uses the state and these various instruments to safeguard and increase its profits, its apologists thunder in public against any state interference with economic development. The "left" advocates of the introduction of state investment direction gaily played along in this theater of the absurd. They ignored the fact that, without a change in the political power relations, this state exercises its functions in the interest of monopoly capital, that unless the economic power of monopoly capital is broken, this role of the state will not change, and that the introduction of state investment direction in these circumstances would amount only to the further improvement of the existing instruments for regulating economic development within state monopolistic capitalism.

The example of J. Steffen's ideas demonstrates that the use of the concept of social totality has no real recognition value unless it is related to the concept of the socioeconomic formation, in fact it obscures rather than illuminates the real dialectic process of social development. At the same time we affirm that the concept of totality--if set in its proper relation to the concept of societal formation--may serve as a recognition factor, because it is suitable for describing certain inevitable development processes in a society. Karl Marx quite frequently uses the concept of totality and does so always when defining the holistic nature of a social development process or a totality of social conditions. The possible recognition value of the concept of totality emerges with particular precision in Marx's remarks

on a particular tendency inherent in any societal formation. In his preparatory studies on the analysis of the capitalist society he says: "We must consider that the new productive forces and production relationships do not develop in a vacuum, nor in the air, nor spring forth spontaneously; they must arise within and in opposition to the previous development of production and traditional property relationships. In the fully developed bourgeois system every economic relation presumes every other in bourgeois-economic form and therefore every given fact is at the same time a prerequisite. The same applies to any organic system. This organic system itself as a totality has its prerequisites, and its development to a totality consists precisely in its success at obtaining the subordination to itself of all elements of society or creating from society any organs which may still be lacking. Thus it has historically become a totality. The rise of this totality represents an element in this process, in its development."<sup>8</sup>

The acknowledgement of the development of a society to a totality formulated in these remarks presumes the materialist version of social development. By recognizing that production relationships are of a material nature and as such determine the nature of all other social relationships Marx and Engels revealed the relationships within a society, which determine the general character of that society in its development as a totality. As the production process is always a process involving the acquisition of nature by man<sup>9</sup> the conditions in which men produce are necessarily relationships of acquisition--property relationships which, on transition to the class society, turn up as juridical relationships. The legal form of property relationships, however, is not the relationship which as the production relationship--acquisition relationship, property relationship--determines the legal form and is legally sanctioned by it. The determination of the production relationships as relationships of acquisition, as property relationships, permitted Marx and Engels to recognize different societal forms and summarize this appreciation in the concept of the socioeconomic formation.

The giant step forward reflected in the concept of the socioeconomic formation becomes obvious when we briefly recall what various early bourgeois thinkers considered crucial for the development and the character of a society. Hegel falls back on the idea, the spirit, the general principle, such as the subjective inner nature as the general principle of the Roman world.<sup>10</sup> Karl Marx chided the early bourgeois economists for interpreting "as a matter of exchange and trade the community of man or its active humanity, its reciprocal complementation for the life of the species, for a truly humanistic life."<sup>11</sup> Adam Smith explained: "Everyone, therefore, lives by exchange or becomes a trader to a certain extent, and society actually develops into a trading society." In the same spirit Destutt de Tracy said: "...society is wholly and exclusively a series of reciprocal exchanges..." Karl Marx commented these conceptions by saying that "the national economy fixes the alienated form of social intercourse as the essential and original form, consonant with human destiny."<sup>12</sup> Friedrich Engels stated that Saint-Simon's ideas show the germ of the acknowledgement that the economic situation represents the basis of political institutions.<sup>13</sup> Saint-Simon rejected the

old method of reckoning history by dynasties. Instead he used the term "social order" and considered the history of human society the progressive development of less perfect social organizations to more perfect ones. But he did not transcend the barriers of an idealistic interpretation of social development. In his estimation social systems do not differ primarily by their economic relationships but by the developmental stages of the human mind which advances from polytheism to deism and subsequently to the liberation of thought from the religious husk.<sup>14</sup>

Marx and Engels exploded the narrow limits of bourgeois political economics and, by formulating the concept of the socioeconomic formation, relegated to the realm of speculation the search for some intellectual principle governing social development. They proved that the system of production relationship represents the basis of society "on which rest politico-juridical forms and certain movements of social thought." According to Marx "every system of production relationships represents a specific social organism," and its "development, functioning and transition to a more advanced stage, its change into another social organism, follows specific laws."<sup>15</sup> The concept of social totality only acquires significance for social recognition by allocation to the concept of socioeconomic formation. Whatever society's formation, becoming a totality consists in this: Firstly the production relationships determining the respective formation and developing in dialectic interrelation with the productive forces displace all other production relationships originating from earlier formations, or subjugate them to the effect that the latter themselves become elements of the developing totality; secondly the nature of the crucial production relationships is reproduced in all other social relations. The progress of the formation to totality is a dialectic process--the other social relations determined by the production relationships in turn affect them and become factors of the consolidation of the formation and its development as totality.

On the first trend: Karl Marx studied the development of the incorporation of the feudal relationships of real property into the capitalist production relationship. He arrived at the following generalization: "However, the form of real property encountered by the burgeoning capitalist production method is not appropriate to it. Only later will the capitalist production method create the appropriate form by subjugating agriculture to capital. As a consequence feudal real property, clan property or small peasing holdings are transformed into the socioeconomic form consonant with this method of production, regardless of the differences in their juridical forms."<sup>16</sup>

He sums up: "With the development of the capitalist method of production all production becomes the production of goods."<sup>17</sup> In the course of his debate with the Populists Lenin examined the triumph of capitalist production relationships in the agriculture of tsarist Russia. While the Populists built their social utopias on the belief in the continued existence and further development of the old village communities, Lenin showed that the old village community was already in the process of dissolution as a result of capitalist development in rural areas.<sup>18</sup> The development of the production relationships thus is itself a development toward totality. Only on this

basis will the given societal formation become a totality. Marx's statement that feudal real property and other noncapitalist types of property are economically incorporated in the capitalist method of production even if juridical forms of property differ, may be supplemented by noting the following: In Germany the process of the incorporation of feudal real property, the large landholdings of the Junkers, into the capitalist method of production was completed in the 19th Century, but juridical forms lasted longer--the feudal relationship of primogeniture was not abolished until 1918. Incidentally, Marx's statement also applies to such relationships in the sphere of production and consumption as were established in opposition to capitalist exploiter relationships. The consumer cooperatives which are important in some capitalist countries and some of which even have substantial production capacities, as well as the residential and housing construction societies maintained by the FKG labor unions, for example, differ in their juridical form from the capitalist ownership relationship to the means of production, but from the aspect of economics they are included in the totality of the capitalist method of production and subject to the prevailing laws of the employment of capital. By saying this I do not intend to belittle the real importance of consumer and other cooperatives as one of the lower forms of organization of the working class and the working masses.

Secondly the advance of a societal formation to totality is not confined to the classification and subordination of all production relationships which fail to accord with the determining production relationships. Indeed it extends to the entirety of social relations which adjust to and reflect the nature of the determining production relationships. Only thus can the ideologically determined relationships meet their active role in the consolidation and development of the production relationships and the social totality. In this context Karl Marx said: "With the progress of capitalist production its relationships also develop; it subjects to its specific nature and inherent laws the totality of the social prerequisites within which the production process is carried on."<sup>19</sup> On the active repercussion of the ideologically determined social relationships on the production relationships he commented as follows: "It is obvious, furthermore, that here as elsewhere it is in the interest of the ruling section of society to sanctify the status quo and legally uphold the barriers erected by custom and tradition. Disregarding any contributing factors this is, incidentally, a spontaneous happening as soon as the constant reproduction of the basis of the existing situation, the relationship on which it rests, assumes a settled and orderly shape in the course of time." The reproduction of the "basis of the existing situation" is consolidated "as custom and tradition and is ultimately hallowed as an explicit law."<sup>20</sup>

It is quite significant that in this connection Marx speaks of the "interests of the ruling section of society." After all, at this point neither relationships nor structures interact here--in the meaning of the abstract substance related to the Hegelian spirit of the universe. The interaction is that of men whose social actions, while apparently guided by purely subjective motives, arise in actual fact from objective class interests or the

motivation derived therefrom. We refer here to a line drawn by Marx himself, concerning the two methods of interpretation of the social development. They are well demonstrated in Victor Hugo's and Proudhon's writings against Louis Bonaparte. Marx said: "Victor Hugo confines himself to bitter and witty invective against the man responsible for the coup d'etat. The event itself appears to him to have struck like lightning, without any prior warning. All he perceives is the violent act of a single individual. He does not notice that he thereby ascribes greatness rather than belittles that individual by investing him with a personal power of initiative unique in world history. Proudhon, for his part, attempts to describe the coup d'etat as the result of previous historical developments. At the same time, though, he converts the historical construction of the coup d'etat into the historical apologia of the coup d'etat's hero. He thus falls into the trap of the so-called objective historians. I, on the other hand, demonstrate how the class conflict in France created the circumstances and conditions which enabled a mediocre and grotesque personage to play the role of hero."<sup>21</sup> Friedrich Engels pointed out that Marx had discovered the great law of the movement of history, "the law according to which all historical struggles, whether on the political, religious, philosophical or otherwise ideological level, are in fact only the more or less obvious expression of the conflicts between social classes..."<sup>21</sup>

Steffen's concept of the "structural revolution" denies this law of historical movement discovered by Marx, and his reflections (as those of other representatives of the so-called "left") on the power of the structures which suddenly changes into omnipotence, make the structures a kind of functional substance. In the result social reality is obfuscated rather than illuminated. According to Marx the heart of the matter is the fact that the structures themselves are the results of the conflicts of the classes and the forms of authority--economic, political, ideological, and so on--of a class, and that they can therefore be changed only in the course of class conflicts. The concept of the structural revolution obscures this fact. It can easily be misused--and that is actually often the case--to deny the struggling working class the concrete goal set by its historical mission: To deprive the bourgeoisie of its political and economic power--and that is in fact the "power of the structures"--and itself to exercise this power on its own and therefore the total societal interest. By his interpretation of the structural revolution Steffen obviously falls prey to the error of the so-called objective historians, which also entrapped Proudhon. V.I. Lenin noted and criticized the same error in the opinions of Struve: "The objectivist speaks of the necessity of the given historical process; the materialist accurately ascertains the given socioeconomic formation and the antagonistic relationships caused by it. If the objectivist proves the necessity of a given series of facts he runs the risk of becoming the apologist of these facts; the materialist reveals the class opposition and thereby fixes his standpoint. The objectivist speaks of 'unsurmountable historical trends'; the materialist speaks of the class which 'directs' the given economic system and thereby provokes counteraction of the other classes in one form or another. ...He is not content with indicating the necessity of the process but explains which

socioeconomic formation gives content to the process, which class decides this necessity..., " which specific classes "determine the content of the given relationship..."<sup>23</sup> Steffen foregoes the unequivocal class content of the given relationships, just as he foregoes the ascertainment of the given socioeconomic formation. Without these determinations such concepts as social structures or social totality remain empty formulae.

His waiver also makes it impossible for him to recognize that the trend to the development of its totality is present in every society's formation, admittedly in different forms and different powers of implementation. In the slaveholding society the production relationship of slavery largely ousts all other production relationships. Free artisans and farmers, producing independently, exist merely at the fringe of the fully developed slaveholding society. Ideology reflects the relationship of slavery in such a way that it is philosophically accepted as the given order and thereby sanctioned. Even Christianity--as soon as it becomes the established Church--sanctions the prevailing rule of slavery and the developing relationships of feudal bondage.<sup>24</sup> The production relationships in the feudal society are characterized by the relation between the feudal lord who owns the land--the most important means of production--and the peasant who may be the owner of the tools of production but can be united with the means of production, that is the land, only if he is in one of the feudal personal relations of dependency, whether as serf, bondsman or villein. This production relationship, fundamental to the feudal society, is reproduced in society generally. The feudal hierarchy is a system of personal dependencies. Where feudalism has advanced farthest toward totality this hierarchy has hardly any gaps--from the peasant who tills the land of the noble enfeoffed by prince or king to the king who, as the supreme feudal lord, is king by the grace of God. Ideologically this entire system of personal dependency is reflected in the heavenly hierarchy which is a faithful mirror image of the social reality. The development of the feudal society to totality is further characterized by the incorporation of nonfeudal production relationships. It subjugated the old village community going back to the original social relationships, dissolved it well nigh completely or, as in tsarist Russia, subordinated it to the ruling order. In theory the city was a foreign body in the feudal society, but in reality the feudal society incorporated and subordinated it for centuries, was served by it and, via the development of craft-based goods production and market relations, the city contributed vitally to the evolution of larger territorial feudal states.<sup>25</sup> However, once capitalist goods production emerged, the totality of the feudal society was unable to digest it and exploded as a consequence.

The bourgeois-capitalist formation is the one among all exploiter societies, in which the development to totality is most pronounced. Capitalist goods production "disintegrates and dissolves all older forms of production... . First it generalizes goods production and subsequently, step by step, changes all goods production to capitalist goods production"<sup>26</sup> In contrast to the development of earlier exploiter societies this transformation of older production relationships and their incorporation into capitalist production



relationships and their incorporation into capitalist production relationships proceeds very rapidly and, in general, by means of economic rather than extra-economic compulsion--excepting the use of a specific extra-economic, that is military, force for the liquidation of old forms of production in colonial territories, where they are in the way of the expansion of capitalist goods production. The material production and reproduction process simultaneously signifies the production and reproduction of the relationships within which it proceeds. As "not only simple reproduction" takes place "in the most varied socioeconomic formations...but, though to a different extent, reproduction at an expanded scale,"<sup>27</sup> the reproduction of the respective production relationships is also an expanded reproduction process. The world market develops along with capitalist goods production, and capitalist production relationships assume global proportions. The development of the capitalist formation of society to totality is therefore at one and the same time a global development. On this occasion I can do no more than point out that this trend to universality is unable to find its full realization in the capitalist formation.

While the capitalist society is engaged in subordinating the production methods still persisting in various territories, the new communist formation of society is already taking shape. It is particularly interesting that the development of capitalist production relationships to totality is currently meeting with obstacles in some former colonial countries (and I am not here speaking of those young national states which are consciously striving for noncapitalist development). A discussion by representatives of some communist parties from Asian and African countries asserted unanimously that in these countries capitalism had been unable to conquer the social structure consisting of several socioeconomic sectors, subjugate the precapitalist sectors or the sector of small-scale capitalist production, which continue to involve the main body of the population.<sup>28</sup> In Asia and Africa capitalism has shown itself powerless to integrate precapitalist production methods of either industry or farming.<sup>29</sup> A deeper cause is the fact that capitalist development in Asian and African countries does not proceed in the same conditions which prevailed during the bourgeois-democratic revolution in the European and North American countries. At the present time national liberation proceeds in the era of the worldwide transition from capitalism to socialism, and not even in the young nation states is capitalism any longer a progressive and rising method of production.<sup>30</sup> In view of the power relationship of the classes prevailing in the various countries capitalism is no longer able to develop as a totality.

We are enabled to understand the stability of the various societal formations, their "solidity and independence from sheer arbitrariness and sheer accident"<sup>31</sup> if we appreciate the fact that, in its development to totality, every societal formation has the capacity to incorporate and subjugate all relationships not appropriate to it, and to create those which are. The more mature and wealthier the class society as totality, the more mature and acute is class antagonism! Totality thus carries and develops the germ of its own destruction.

Karl Marx' findings with respect to the development of a formation to totality also apply to the communist formation of society. While, however, this process is spontaneous in the exploiter societies, the development of the communist formation is characterized by the consciousness of social action. Only on this basis does it historically arrive at totality. The crucial steps are the conquest of political power by the working class and the working masses led by their party, the abolition of the capitalist ownership of the means of production and the establishment of socialist production relationships, total societal and cooperative ownership of the means of production. The development of socialist production relationships to totality consists, among others, in the subjugation and incorporation of persisting old relationships of small-scale goods production alongside the transformation to social ownership of the capitalist ownership of the means of production. For example in the GDR the private artisan enterprises still engaged in the field of services, are integrated into the system of socialist production.

J. Steffen and other critics of Marxism-Leninism either cannot or will not understand that the establishment of socialist production relationships, the establishment of the social ownership of the means of production, is by no means a mere "juridical category." Marx and Engels found that the development of capitalism had made it necessary "for individuals to acquire the existing totality of productive forces not only to achieve independence of occupation but in fact to secure their ability to make a living." But only the proletariat was able, in accordance with its situation, to achieve this acquisition of a totality of productive forces and the ensuing development of a totality of individual abilities. All earlier acquisitions were limited because individuals had acquired only a restricted production tool and could therefore not exceed new limits. The proletariat, on the other hand, could and would have to acquire the totality of productive forces. "Private ownership stops with the acquisition of the total productive forces by the united individuals." This acquisition of the total productive forces is possible only by way of total societal ownership. Marx emphasizes this point when he says: "Modern intercourse cannot be subsumed among individuals except by subsuming it among all."<sup>32</sup>

The development of the communist formation of society, therefore, must also mean that, on the basis of the acquisition of the totality of productive forces by the united individuals by way of social ownership the development of the totality of individual abilities is also realized.

Naturally this is not a simple declarative act. It is actually a process characterized by, among other factors, the steady improvement of the educational level of the working people, professional training, the collaboration of the working people in the planning and management of production in the enterprise and society as a whole, and finally by the exercise of political power by the communist-led working class, by the medium of the state as the instrument of the planning and management of social development. The critics of Marxism-Leninism are either unable or unwilling to appreciate properly the

revolutionary class content of the social revolution, which is the most comprehensive world historical action of an exploited class, and by which it abolishes exploitation and lays the foundation for the development of a society representing also the development of the totality of individual abilities. As I said earlier, by claiming that the enslavement of man by machine continues, Marcuse attempts to justify his assertion that the transition to socialism is no more than a quantitative change. Essentially J. Steffen agrees with this view. Both thus merely repeat the conceptions of bourgeois economists, which were already criticized by Marx. "In these conceptions past work is not held to be a mere objective element of live work subsumed in it, in fact the contrary is asserted; not as an element of power of live labor but as power over this labor. In order technologically also to justify the specific social form, that is the capitalist form, where the relationship of labor to working conditions is turned upside down so that not the worker uses the conditions but the conditions use the worker, economists attribute a false importance to the objective element of labor compared to labor as such."<sup>33</sup> Marcuse, Steffen and others elevate to an absolute category the upside-down relationship of labor and working conditions in capitalism and thereby close off the possibility of recognizing that, with the establishment of socialist production relationships, past labor becomes the objective element of live labor, is subsumed in it, and the worker uses the conditions. Steffen and others cannot surmount the limited experiences of their society of state monopolistic capitalism, in which in fact many acts of nationalization remain "merely juridical acts." Such acts often meet with the approval of the bourgeoisie as a whole. The state as juridical owner of these enterprises, usually engaged in transportation and energy, subsidizes these enterprises or industries by allocations from tax funds. As a consequence the state can sell their products and services to the monopolies below actual cost and thus assure maximum profits for the monopolies. As in these cases the state enterprises are fully incorporated in the system of monopoly capitalism it is obvious that they will maintain the inverted relationship of labor and working conditions.

Marxist use of the concept of social totality also indicates that the totality of social relationships must be so developed that they respond to the nature of the socialist production relationships. In capitalism the process of the change of ideological social relationships proceeds in accordance with the ruling production relationships on the basis of the spontaneity of social development. It proceeds so comprehensively that the goods relation as the relationship characteristic of capitalist production relationships permeates even those social spheres which are far removed from material production. In the development of the communist formation of society the nature of the production relationships determining it must reproduce by way of the consciousness of social action in all social relations, that is these relations must, consciously with the fullest possible knowledge of their immediate and further effects, be organized in such a manner that they fit in with the totality of the socialist society in order to be able to contribute to its development and thereby to the development of the totality of the individuals. From the aspect of the Marxist concept of social totality

the organization of the developed socialist society, the further development of all social relationships embodied in it and the expansion of its socialist nature represents a crucial stage in the development of the communist formation of society, in its historic growth to totality. It is "a historical process of fundamental political, economic, social and mental-cultural changes."<sup>34</sup> I would add briefly at this point that the historical growth of the communist society toward totality is at the same time the realization of its universality in the framework of the world revolutionary process. For this purpose also the organization of the developed socialist society represents a crucial stage, because it "is the common revolutionary work of the working class and all working people in the countries of the socialist community. The socialist economic integration of the member countries of the Council for Economic Mutual Aid is the solid basis for the steady perfection of cooperation and the systematic adjustment of the socialist nations in all areas of social life."<sup>35</sup>

We may well ask whether the concept of social totality and its use in the Marxist-Leninist social sciences really makes sense. Its use outside the system of Marxist-Leninist philosophy, unconnected with the fundamental categories of historical materialism, is bound to result in empty speculation--as we see by the example of J. Steffen. I have tried to show that the Marxist concept of social totality may very well represent a means for recognizing the dialectic of social development, provided that it is used in conjunction with the fundamental conceptions of historical materialism and itself serves as a historical-materialistic concept. In my opinion, therefore, it is not possible to give it up.

#### FOOTNOTES

1. J. Steffen: "Strukturelle Revolution. Von der Wertlosigkeit der Sachen" [The Structural Revolution. on the Uselessness of Things], Hamburg 1974.
2. V.I. Lenin: "What Are the 'Friends of the People,' and How Do They Fight the Social Democrats?", in V.I. Lenin: Werke, Vol 1, Berlin 1961, p 131.
3. J. Steffen: "Structural Revolution..." as before, p 18.
4. See H. Marcuse: "Die Gesellschaftslehren des Sowjetischen Marxismus" [The Social Doctrines of Soviet Marxism], Neuwied/(West) Berlin 1964, p 89.
5. See H. Marcuse: "Der Eindimensionale Mensch" [One-Dimensional Man], Neuwied/(West) Berlin 1967, p 62.
6. See J. Steffen: "Structural Revolution..." as before, pp 28 f, 396 f.
7. Ibid, p 397.

8. K. Marx: "Grundrisse der Kritik der Politischen Oekonomie" [Outline of the Critique of Political Economics], Berlin 1953, p 189.
9. See K. Marx: "Einleitung zur Kritik der Politischen Oekonomie" [Introduction to the Critique of Political Economics], in K.Marx/F.Engels: Werke, Vol 13, Berlin 1964, p 619.
10. See G.W.F. Hegel: "Vorlesungen Ueber die Philosophie der Weltgeschichte" [Lectures on the Philosophy of World History], Vols 3 and 4, Berlin 1970, p 686.
11. See K. Marx: "Auszuege aus James Mills Buch 'Elemens d'Economie Politique'" [Excerpts from James Mill's Book 'Elements of Political Economics'], in K.Marx/F.Engels: Werke, supplementary volume 1, Berlin 1968, p 451.
12. Ibid.
13. See F. Engels: "Die Entwicklung des Sozialismus von der Utopie zur Wissenschaft" [The Development of Socialism From Utopia to Science], in K.Marx/F.Engels: Werke, Vol 19, Berlin 1962, p 195.
14. See C.-H. de Sant-Simon: "Selected Texts," Berlin 1957, p 119; M.Klein/E.Lange/F.Richter: "Zur Geschichte der Marxistischen Philosophie in Deutschland" [On the History of Marxist Philosophy in Germany], Vol I/1, Berlin 1959, pp 53 f; R. Herrnstadt: "Die Entwicklung der Klassen" [The Development of the Classes], Berlin 1965, p 326.
15. V.I. Lenin: "The Economic Content of Populism and Its Critique in the Book by Struve," in V.I. Lenin: Werke, Vol 1, Berlin 1961, pp 424 f.
16. K. Marx: "Das Kapital," Vol 3, in K.Marx/F.Engels: Werke, Vol 25, Berlin 1964, p 630.
17. Ibid, p 322.
18. See V.I. Lenin: "The Economic Content..." as before, pp 409 ff.
19. K. Marx: "Das Kapital" as before, Vol 3, p 206.
20. Ibid, pp 801 ff.
21. K. Marx: "Vorwort zur Zweiten Ausgabe 'Der Achzehnte Brumaire des Louis Bonaparte'" [Foreword to the Second Edition of "The Eighteenth Brumaire of Louis Bonaparte"], in K.Marx/F.Engels: Werke, Vol 8, Berlin 1960, pp 559 ff.
22. F. Engels: "Vorrede zur Dritten Auflage 'Der Achzehnte Brumaire des Louis Bonaparte'" [Foreword to the Third Edition of "The Eighteenth Brumaire of Louis Bonaparte"], in K.Marx/F.Engels: Werke, Vol 8, p 562.

23. V.I. Lenin: "The Economic Content..." as before, p 414.
24. See W. Hartke: "Roemische Kinderkaiser" [Roman Child Emperors], Berlin 1951, pp 421 ff.
25. See W. Kuettler/G. Lozek: "The Historical Inevitability of Societal Formations as the Dialectic of Event, Structure and Development," in ZEITSCHRIFT FUER GESCHICHSWISSENSCHAFT No 9/1970, p 1130.
26. K. Marx: "Das Kapital," Vol 2, in K.Marx/F.Engels: Werke, Vol 24, Berlin 1963, pp 41 f.
27. K. Marx: "Das Kapital," Vol 1, in K.Marx/F.Engels: Werke, Vol 23, Berlin 1962, p 624.
28. See "Some Peculiarities of Capitalist Development in the Countries of Asia and Africa," in PROBLEME DES FRIEDENS UND DES SOZIALISMUS [Problems of Peace and Socialism], No 12/1975, p 1686.
29. Ibid, p 1693.
30. Ibid, p 1695.
31. K. Marx: "Das Kapital," Vol 3, as before, p 801.
32. K. Marx/F.Engels: "Die Deutsche Ideologie" [German Ideology], in K.Marx/F.Engels: Werke, Vol 3, Berlin 1962, pp 67 f.
33. K. Marx: "Theorien Ueber den Mehrwert" [Theories on Added Value], in K.Marx/F.Engels: Werke, Vol 26.3, Berlin 1968, p 271.
34. "Programm der Sozialistischen Einheitspartei Deutschlands" [Program of the Socialist Unity Party of Germany], Berlin 1976, p 19.
35. Ibid, pp 21 f.

11698  
CSO: 2300

## EAST GERMANY

### BRIEFS

CRITICISM BY CHURCH LEADERS--During the most recent synod of the evangelical province of Sachsen, the Magdeburg church leadership called attention to tensions in GDR society. Church circles in Berlin confirmed this. These tensions reportedly arose through the fact that although the GDR constitution guarantees freedom of conscience and religion, Marxist-Leninist ideology is to prevail. The church leadership has therefore demanded "room for free discussion" in the GDR society. Furthermore, members of the Magdeburg church leadership have expressed the desire to speak to representatives of the state concerning these problems. [Text] [Bonn DIE WELT in German 4 Nov 76 p 2]

TV PROGRAM EXCHANGE WITH AUSTRIA--Expansion of program exchange between GDR and Austrian television was the focus of discussions which Heinz Adamek, chairman of the State Committee for Television under the GDR Council of Ministers, conducted in Vienna at the invitation of Dr Otto Oberhammer, general manager of Austrian Radio and Television (ORF). [East Berlin FF DABEI in German No 45, Nov 76 p 3]

CSO: 2300

HUNGARY

KADAR TO VISIT AUSTRIA IN DECEMBER

Vienna DIE PRESSE in German 6-7 Nov 76 p 1 AU

[Text] According to reliable sources Hungarian party chief Janos Kadar will visit Austria in early December. However, he will pay this visit not in his capacity as communist party secretary but as one of the members of the State Council which in Hungary represents the chief of state. Chancellor Kreisky had met Kadar also during the latter's semi-official visit to Hungary on 11 and 12 September at Lake Balaton.

CSO: 3103



YUGOSLAVIA

CRIMINAL CODE OF THE SFRY

Belgrade SLUZHBI LIST SFRJ in Serbo-Croatian No 44, 8 Oct 76 pp 1329-1364

[Law passed by the SFRY Assembly in a session of the Federal Chamber on 28 September 1976]

[Text]

UKASE

Promulgating the Criminal Code of the Socialist Federal Republic of Yugoslavia

The Criminal Code of the Socialist Federal Republic of Yugoslavia, which was passed by the SFRY Assembly in a session of the Federal Chamber on 28 September 1976, is hereby promulgated.

PR No 498

Belgrade, 28 September 1976

President of the Republic,  
Josip Broz Tito (signed)

President of the SFRY Assembly,  
Kiro Gligorov (signed)

CRIMINAL CODE  
of the Socialist Federal Republic of Yugoslavia

General Section

Title One. Basic Provisions

Protective Function of Yugoslav Criminal Legislation

Article 1

(1) Criminal legislation in the Socialist Federal Republic of Yugoslavia protects against violence, tyranny, exploitation, counterrevolutionary

activity, violation of constitutionality and legality, and other acts dangerous to society; it protects the basic rights and freedoms of men as human beings and citizens, their socioeconomic position, the socialist social system of self-management, the independence and security of the country, the brotherhood and unity and equality of the nationalities and ethnic minorities, and the legal order established by the constitution.

(2) This protection shall be realized through definition of which crimes are acts dangerous to society, by prescribing punishment and other criminal penalties for those crimes and by pronouncing those punishments and penalties upon criminal offenders by due process.

#### Basis and Limits of the Coercion Embodied in Criminal Law

##### Article 2

The protection of man as a human being and of the other basic values of a socialist self-managed society and the exercise of coercion under criminal law when required and to the extent required to suppress activities dangerous to society constitute the foundation for the definition of crimes and establish limits on prescription of sanctions in criminal law.

#### Legality in the Definition of Crimes and the Prescription of the Sanctions in Criminal Law

##### Article 3

No punishment or other sanction in criminal law may be pronounced on anyone for an act which at the time when it was committed had not been legally defined as a crime and had not been legally assigned a punishment.

#### Mandatory Application of the Less Severe Criminal Code

##### Article 4

(1) The law which was in effect at the time when the crime was committed shall be applied against the criminal offender.

(2) Should the law have been amended once or several times since the crime was committed, that law which is less severe for the offender shall be applied.

#### The Sanctions of Criminal Law and Their General Purpose

##### Article 5

(1) The sanctions in criminal law are the following: punishment, suspended sentence and judicial admonition, preventive measures and juvenile measures.

(2) The general purpose of prescribing and pronouncing the sanctions of criminal law is to suppress activities dangerous to society which injure or threaten the social values protected by criminal legislation.

#### Limits on Execution of Sanctions in Criminal Law

##### Article 6

In the execution of the sanctions of criminal law a criminal offender may be deprived of certain rights or those rights restricted only insofar as this is in keeping with the nature and content of that sanction and only in a manner ensuring respect for the offender's personality and dignity as a human being.

#### Validity of the General Section

##### Article 7

The provisions of the general section of this law apply to all crimes defined by the laws of the Federation, the republics and the autonomous provinces.

#### Title Two. The Crime and Criminal Responsibility

##### 1. General Provisions Concerning Criminal Acts and Criminal Responsibility

##### The Crime

##### Article 8

(1) A crime is an act dangerous to society which is defined as a crime by law and has the features specified by the law.

(2) Though containing the features of a crime as defined by law, an act shall not be a crime if its danger to society was negligible because of its small importance and because of the negligible nature or nonexistence of harmful consequences.

##### Unavoidable Defense

##### Article 9

(1) An act committed in unavoidable defense shall not be a crime.

(2) Unavoidable defense is that defense which is indispensable if a man is to repel from himself or other person a simultaneous unlawful attack.

(3) A man who exceeds the limits of unavoidable defense may be given less severe punishment, but if he committed the excess because of extreme provocation or panic because of the extreme anger or fear caused by the attack, he may also be released from punishment.

#### Extreme Necessity

##### Article 10

- (1) An act committed in extreme necessity shall not be a crime.
- (2) Extreme necessity obtains when the act was committed so that the person committing it might remove from himself or other person a simultaneous and manifest danger which could not be removed in any other way, and also the wrong committed was not greater than the wrong which threatened.
- (3) An offender who himself provokes a danger, but does so from negligence, or who exceeds the limits of extreme necessity may be punished less severely, but if he committed the excess under especially alleviating circumstances, he may also be released from punishment.
- (4) Extreme necessity does not exist if the offender had a duty to expose himself to the danger.

#### Criminal Responsibility

##### Article 11

- (1) An offender who is conscious and who committed a crime with intent or out of negligence is criminally responsible.
- (2) An offender is criminally responsible for a crime committed out of negligence only when the law so specifies.

#### Mental Capacity

##### Article 12

- (1) An offender who at the time he committed the crime could not comprehend the significance of his act or could not control his actions because of permanent or temporary mental illness, temporary mental disturbance or retarded mental development (mental incapacity) is not accountable.
- (2) A criminal offender whose capacity to comprehend the significance of his act or whose ability to control his actions was essentially diminished because of some condition as mentioned in Paragraph (1) of this article may be punished less severely (essentially diminished mental capacity).

(3) A criminal offender who by the use of alcohol or drugs or in some other manner brought himself to a condition in which he could not comprehend the importance of his act or control his actions shall be criminally responsible if before he brought himself to that condition the act fell within the realm of his intent or if his attitude toward the crime was one of negligence and the law envisages for such crime criminal responsibility even in cases of negligence.

#### Intent

#### Article 13

A crime has been committed with intent when the offender was conscious of his act and desired its execution or when he was conscious that a forbidden consequence could ensue upon his act or its omission, but he consented to its occurrence.

#### Negligence

#### Article 14

A crime is committed out of negligence when the offender was conscious that the forbidden consequence could ensue because of his act or its omission, but he carelessly maintains that he could prevent it or that it would not ensue, or when he was not conscious of the possibility that the forbidden consequence would ensue, even though he should have been and could have been conscious of that possibility on the basis of the circumstances and in view of his own personal characteristics.

#### Responsibility for Grave Consequence

#### Article 15

When a crime leads to a grave consequence for which the law prescribes a more severe punishment, that punishment may be pronounced if the offender behaved negligently toward that consequence.

#### Mistake of Fact

#### Article 16

(1) An offender who at the time when he committed a crime was not conscious of some feature of the crime defined by law or who mistakenly held that circumstances obtained under which, had they actually obtained, the act would have been permissible, is not criminally responsible.

(2) If the offender's mistake occurred because of negligence, he is criminally responsible for a crime committed out of negligence when the law specifies criminal responsibility for such a crime even out of negligence.

## Mistake of Law

### Article 17

A criminal offender who for justifiable reasons did not know that the act was prohibited may be punished less severely or released from punishment.

## 2. Preparation and Attempt of a Crime

### Preparation

#### Article 18

(1) Whosoever prepares the execution of a crime with intent shall be punished only when the law so specifies explicitly because of the special danger to society from such preparation.

(2) The preparation of a crime may be defined by law as a separate crime, or the law may prescribe punishment for the preparation of a particular crime.

(3) When the law prescribes punishment for the preparation of a particular crime, the preparation may consist of procuring the means of committing the crime or of making the means suitable, of removing obstacles to execution of the crime, of agreeing, planning or organizing with others the execution of the crime, or of other actions whereby conditions are created for the actual execution of the crime, but not constituting the act of execution.

### Attempt

#### Article 19

(1) Whoever commences the execution of a crime with intent, but does not complete it, shall be punished for the attempt of the crime if under the law a punishment of imprisonment for 5 years or more severe punishment may be pronounced, and for the attempt of some other crime only when the law explicitly prescribes punishment for attempt as well as commission.

(2) The offender shall be punished for an attempt within the limits of the punishment prescribed for the crime, but he may be punished less severely.

### Futile Attempt

#### Article 20

A perpetrator who attempts to commit a crime with inapplicable means or against an inapplicable object may be released from punishment.

## Voluntary Abandonment

### Article 21

(1) An offender who has prepared or attempted to commit a crime, but who has voluntarily abandoned its execution, may be released from punishment.

(2) In the case of voluntary abandonment, the offender shall be punished for those actions which constitute any other independent crime.

## 3. Joint Participation in a Crime

### Joint Perpetration

### Article 22

If a crime is committed jointly by more than one person through participation in the act of execution or in some other manner, each of them shall be punished with the punishment prescribed for that crime.

### Instigation

### Article 23

(1) Whoever willfully urges another to commit a crime shall be punished as though he himself had committed it.

(2) Whoever willfully urges another to execute a crime for which under law a punishment of 5 years' imprisonment or more severe penalty may be pronounced, in a case when the crime was not even attempted, shall be punished as for an attempt of the crime.

### Aiding

### Article 24

(1) Whoever willfully aids another to commit a crime shall be punished as though he himself committed it, but he also may be punished less severely.

(2) The following shall in particular be regarded as aiding in the execution of a crime: the giving of advice or instructions as to how to commit the crime, the placement of the means for execution of the crime at the disposition of the perpetrator, the removal of obstacles to execution of the crime, and concealment by prior commitment of the crime, the perpetrator, the means by which the crime was committed, the traces of the crime, or articles procured by means of the crime.

## The Limits of the Criminal Responsibility and Punishability of Accomplices

### Article 25

(1) An accomplice is criminally responsible within the limits of his intent or negligence, and an instigator and accessory is responsible within the limits of his intent.

(2) An accomplice, instigator or accessory who voluntarily prevents the committing of the crime may be released from punishment. This also applies in a case of preparation of a crime regardless of whether the law has defined it as a separate crime or whether the law has prescribed punishment for preparation of a particular crime (Article 18, Paragraph (2)).

(3) The personal relations, features and circumstances for which the law excludes criminal responsibility or allows release from punishment, remission or enhancement of punishment, may be taken into account only with respect to that perpetrator, accomplice, instigator or accessory to whom such relations, features and circumstances pertain.

## Criminal Responsibility and Punishability of the Organizers of Criminal Associations

### Article 26

Whoever creates or uses an organization, band, conspiracy, group or other association to commit crimes is criminally responsible for all the crimes which result from the criminal plan of those associations and shall be punished as though he himself committed them regardless of whether and in what capacity he directly participated in execution of those separate and individual crimes.

## 4. Special Provisions Concerning Criminal Responsibility for Crimes Committed Through the Press and Other Means of Public Information and Communication

### Criminal Responsibility of the Responsible Editor

### Article 27

(1) The responsible editor or person replacing him at the time when the information was published shall be criminally responsible for crimes committed through newspapers or other periodical, over the radio or television or through the film news journal is criminally responsible in the following cases:

1) if the author remains unknown up until completion of the trial before the court in the first instance,



- 2) if the information was published without the author's consent,
- 3) if at the time when the information was published there were real or legal impediments to the author's prosecution and these impediments still persist.

(2) The responsible editor or person replacing him shall not be criminally responsible if for justifiable reasons he did not know of the circumstance as enumerated in Points 1) through 3) of Paragraph (1) of this article.

#### Criminal Responsibility of Publishers, Printers and Manufacturer

#### Article 28

(1) When conditions as mentioned in Article 27 of this law obtain, the following bear criminal responsibility:

1) the publisher--for a crime committed through a printed publication that is not a periodical, but if there is no publisher or there are real or legal impediments to his prosecution--the printer who was aware of this,

2) the manufacturer--for a crime committed by means of a phonograph record, magnetic tape, film for public and private viewing and slides, sound recording, video or audio equipment, or similar means of communication intended for a sizable audience.

(2) If the publisher, printer or manufacturer is a juridical person or government agency, criminal responsibility is borne by the person who is responsible for the publication, printing or manufacture.

#### Application of the General Provisions Concerning Criminal Responsibility

#### Article 29

The provisions concerning the criminal responsibility of individuals as enumerated in Articles 27 and 28 of this law are applicable only if such individuals are not criminally responsible under the general provisions of this law concerning criminal responsibility.

#### 5. Manner, Time and Place of a Crime's Execution

#### Manner of Execution of a Crime

#### Article 30

(1) A crime may be committed by commission or omission.

(2) A crime may be committed by omission only when the offender failed in a commission which he had a duty to execute.

## Time of a Crime's Execution

### Article 31

A crime is committed at the time when the perpetrator performed the act or had a duty to perform it regardless of when the consequence ensued.

## Place of a Crime's Execution

### Article 32

(1) A crime is committed both at the place where the perpetrator committed his act, or had a duty to perform an act, and also at the place where the consequence ensued.

(2) The preparation and attempt of a crime are assumed to have been executed at the place where the perpetrator performed his act and at the place where, according to his intent, the consequence should have ensued or could have ensued.

## Title Three. Punishment

### 1. The Purpose of Punishment, the Types of Punishment and the Conditions for Their Pronouncement

#### Purpose of Punishment

### Article 33

Within the general purpose of the sanctions of criminal law (Article 5, Paragraph (2)), the further purposes of punishment are as follows:

- 1) to prevent the offender from committing crimes and to reform him,
- 2) to exert a moral influence on others to deter them from committing crimes,
- 3) to strengthen the morality of a socialist self-managed society and to promote the development of citizens' social responsibility and discipline.

#### Types of Punishment

### Article 34

The following punishment may be pronounced for crimes upon criminally responsible offenders:

- 1) the death penalty,

- 2) imprisonment,
- 3) fines,
- 4) confiscation of property.

#### Primary and Secondary Punishment

##### Article 35

- (1) The death penalty and imprisonment may be pronounced only as primary punishment.
- (2) A fine may be pronounced both as a primary and also as a secondary punishment.
- (3) Confiscation of property may be pronounced only as a secondary punishment.
- (4) If several punishments have been prescribed for a single crime, only one may be pronounced as the primary punishment.
- (5) A fine may not be pronounced against an offender against whom confiscation of property has been pronounced.

#### Legality in Sentencing

##### Article 36

- (1) The punishment prescribed for the crime committed shall be pronounced on the perpetrator of the crime, and a less severe or more severe punishment than that prescribed may be pronounced only under the conditions envisaged by this law.
- (2) For crimes committed in pursuit of gain a fine may be pronounced as a secondary punishment even when it has not been prescribed by law or when the law prescribed that the offender shall be punished by imprisonment or a fine, and the court has pronounced imprisonment as the primary punishment.

#### The Death Penalty

##### Article 37

- (1) The death penalty may not be prescribed as the sole primary penalty for a particular crime.
- (2) The death penalty may be pronounced only for the gravest cases of serious crimes for which it has been prescribed by law.

(3) The death penalty may not be pronounced upon a person who was under age 18 at the time when the crime was committed, nor may it be pronounced on a pregnant woman.

(4) Under the condition mentioned in Paragraph (2) of this article the death penalty may be pronounced on a person who had reached the age of majority of 18 years at the time when the crime was committed, but had not reached age 21, only for crimes against the foundations of the socialist social system of self-management and the security of the SFRY, or crimes against humanity and international law, and for crimes against the armed forces of the SFRY.

(5) The death penalty shall be inflicted by a firing squad and shall not be public.

#### Imprisonment

#### Article 38

(1) Imprisonment may not be less than 15 days nor longer than 15 years.

(2) For crimes for which the death penalty has been prescribed the court may also pronounce a sentence of imprisonment for 20 years.

(3) If imprisonment for a period up to 15 years has been prescribed for a crime committed with intent, imprisonment for 20 years may be prescribed for the aggravated forms of that crime.

(4) Prison sentences shall be pronounced in terms of full years and months, but in terms of full days for sentences of less than 6 months.

(5) Prison sentences shall be served in closed, half-open and open correctional institutions.

(6) A convict who has served half of his prison sentence--and in exceptional cases even one who has served one-third of the sentence--may be released from serving the sentence under condition that he not commit a new crime before expiration of the period for which the sentence was pronounced (parole).

#### Fine

#### Article 39

(1) A fine may not be less than 500 dinars. A fine may not be greater than 50,000 dinars, except for crimes committed in the pursuit of gain, for which the maximum is 200,000 dinars.

(2) The sentence shall specify the deadline for payment of a fine, which may not be less than 15 days nor more than 3 months, but in justifiable cases the court may allow the convicted person to pay a fine in installments, but the total period of payment may not be longer than 2 years.

(3) If the fine cannot be collected even by force, the court shall carry out the sentence by pronouncing one day of imprisonment for each 100 dinars or part thereof of the fine, but imprisonment may not be longer than 6 months.

(4) If the convicted person has paid only a part of the fine, the remainder shall be proportionally converted to imprisonment, but if the convict pays the remainder of the fine, the serving of the prison sentence shall be terminated.

(5) A fine shall not be collected after the convicted person's death.

#### Confiscation of Property

##### Article 40

(1) Confiscation of property consists of taking property from the convicted person without compensation, within the limits prescribed by law.

(2) Confiscation of property may be pronounced only for crimes for which it has been explicitly prescribed and when a prison sentence of at least 3 years has been pronounced on the offender.

## 2. The Meting Out of Punishment

#### General Rules on the Meting Out of Punishment

##### Article 41

(1) The court shall mete out the punishment of the criminal offender within the limits prescribed by law for the crime, bearing in mind the purpose of inflicting punishment and taking into account all circumstances tending to increase or decrease the punishment (alleviating and aggravating circumstances), and in particular the following: the degree of criminal responsibility, the motive from which the crime was committed, the degree of the threat to or injury of the good being protected, the circumstances under which the crime was committed, the offender's previous life, his personal situation and his behavior following the crime, and other circumstances pertaining to the offender's personality.

(2) When a court is meting out punishment upon a recidivist, it shall particularly take into account whether the previous crime was of the same kind as the new crime, whether both crimes were committed from the same motive, and the amount of time since the previous conviction or since the serving of the sentence or the pardon.

(3) In meting out a fine, the court shall also take into account the size of the offender's property, particularly taking into account the level of his wage or salary, his other income, his property, and his family obligations.

#### Remission of Punishment

##### Article 42

A court may mete out to an offender punishment below the limits prescribed by law or apply a less severe type of punishment in the following cases:

- 1) when the law provides that the offender may be punished less severely,
- 2) when it decides that particularly alleviating circumstances obtain, so that the purpose of inflicting punishment can be attained by the punishment as remitted.

#### Limits on Remission of Punishment

##### Article 43

(1) When the conditions for remission of punishment mentioned in Article 42 of this law obtain, the court shall remit punishment within the following limits:

- 1) if the minimum punishment prescribed for the crime is a prison sentence of 3 years or more, punishment may be remitted to 1 year in prison,
- 2) if the minimum punishment prescribed for the crime is a prison sentence of 2 years, punishment may be remitted to 6 months in prison,
- 3) if the minimum punishment prescribed for the crime is a prison sentence of 1 year, punishment may be remitted to 3 months in prison,
- 4) if the minimum punishment prescribed for the crime is a prison sentence of less than 1 year, punishment may be remitted to 15 days in prison,
- 5) if imprisonment has been prescribed for the crime, but the minimum has not been indicated, a fine may be pronounced instead of imprisonment,
- 6) if a minimum fine has been prescribed for the crime, the fine may be remitted to 500 dinars.

(2) In deciding how much to mitigate the punishment in accordance with the rules provided in Paragraph (1) of this article, the court shall give particular consideration to the minimum and maximum punishment prescribed for the crime.

## Release From Punishment

### Article 44

(1) The court may release the criminal offender from punishment only when the law explicitly provides for this.

(2) When the court is authorized to release a criminal offender from punishment, it may mitigate the punishment regardless of the limits prescribed for remission of punishment.

## Special Grounds for Release From Punishment

### Article 45

The court may release from punishment the perpetrator of a crime committed out of negligence when the consequences of the crime affect the offender so severely that pronouncement of punishment in such a case obviously would not contribute to the purpose of inflicting punishment.

## Pronouncement of More Severe Punishment in Cases of Recidivism

### Article 46

(1) For a crime committed with intent for which imprisonment has been prescribed the court may pronounce a more severe punishment than the punishment prescribed under the following conditions:

1) if on two or more occasions the offender has been sentenced to at least 1 year in prison for crimes committed with intent and shows a propensity to commit crime,

2) if 5 years did not pass between the offender's release from serving the previous sentence to the committing of the new crime.

(2) The more severe punishment may not exceed twice the prescribed punishment nor 15 years in prison.

(3) In judging whether to pronounce a punishment more severe than the punishment prescribed, the court shall especially take into account the kinship between the crimes committed, the motive from which they were committed, the circumstances under which they were committed, and the need to pronounce such punishment in order to achieve the purpose of inflicting punishment.

## Atrocious Cases

### Article 47

When the law prescribes a more severe penalty for an atrocious case of some crime, the court shall pronounce that penalty if the crime presented an accentuated danger to society for the following reasons:

- 1) because in committing it the perpetrator displayed particular resolution, persistence or wantonness,
- 2) because the crime caused especially serious consequences or was committed under other especially aggravating circumstances.

## Coincident Crimes

### Article 48

(1) If by one act or several acts an offender has committed several crimes for which he is being tried simultaneously, the court shall first fix punishment for each of these crimes, and shall then pronounce a single sentence to cover all those crimes.

(2) The court shall pronounce the single sentence covering all the crimes in accordance with the following rules:

- 1) if it has fixed the death penalty for any of the coincident crimes, it shall pronounce only that punishment,
- 2) if it has fixed a prison sentence of 20 years for one of the coincident crimes, it shall pronounce only that sentence,
- 3) if it has fixed prison sentences for the coincident crimes, the single sentence must be greater than any of the individual sentences fixed, but it may not be as great as the sum of the sentences fixed, nor may it exceed 15 years of imprisonment,
- 4) if prison sentences of less than 3 years have been prescribed for all the coincident crimes, the single sentence covering all the coincident crimes may not be greater than 8 years of imprisonment,
- 5) if it has fixed only fines for all the coincident crimes, it shall increase the highest fine fixed, but such fine may not exceed the sum total of the fines fixed, nor 50,000 dinars, or 200,000 dinars if one or more of the crimes were committed out of the pursuit of gain,
- 6) if prison sentences were fixed for some of the coincident crimes and fines for others, a single prison sentence and a single fine shall be pronounced according to the provisions of Points 3) and 4) of this paragraph.



(3) The court shall pronounce a secondary punishment if it has been fixed for at least one of the coincident crimes, and if more than one fine has been fixed, it shall pronounce a single fine in accordance with the provision of Point 5) of Paragraph (2) of this article.

(4) If the court has fixed prison sentences and reformatory sentences for coincident crimes, it shall pronounce an overall prison sentence by applying the rules envisaged in Points 2) through 4) of Paragraph (2) of this article.

#### Meting Out Punishment to a Convict

#### Article 49

(1) If a convict is being tried for a crime committed before he began to serve his sentence on the basis of a prior conviction or for a crime committed while serving his sentence in a prison or reformatory, the court shall pronounce a single sentence to cover all the crimes by applying the provisions of Article 48 of this law, taking the sentence previously pronounced as already fixed. The sentence or part of the sentence which the convict has served shall be included in the prison sentence pronounced.

(2) For a crime committed by an offender serving a sentence in a prison or reformatory the court shall pronounce a sentence independently of the sentence previously pronounced if by applying the provisions of Article 48 of this law the purpose of inflicting punishment could not be achieved in view of the length of the previous sentence not yet served.

(3) A convict who commits a crime while serving a sentence in prison or reformatory shall be given disciplinary punishment if the law prescribes for that offense a fine or imprisonment less than 1 year.

#### Counting Time Served Awaiting Trial and Under a Previous Sentence

#### Article 50

(1) Time spent in jail awaiting trial and every detention in connection with the crime shall be counted against the prison sentence, reformatory sentence, or fine that is pronounced.

(2) A prison sentence which a convict has served or a fine which he has paid for a misdemeanor or economic offense and a sentence or disciplinary measure of confinement which he has served because of violation of military discipline shall be counted against the sentence pronounced for a crime whose features are covered by the features of a misdemeanor, economic offense or violation of military discipline.

(3) In every computation a day of pretrial custody, a day of detention, a day of reformatory, a day of prison and 100 dinars of a fine shall all be equivalent.

## Title Four. Suspended Sentence and Judicial Admonition

### The Purpose of the Suspended Sentence and Judicial Admonition

#### Article 51

Within the general purpose of the sanctions of criminal law (Article 5, Paragraph (2)) it is the purpose of the suspended sentence and the judicial admonition to refrain from inflicting punishment on a criminally liable offender for acts which represent a minor danger to society when such inflicting of punishment is not required for the criminal law to perform its protective function and when it can be expected that a warning and the threat of punishment (suspended sentence) or only the warning (judicial admonition) would sufficiently deter the offender from committing other crimes.

#### Suspended Sentence

#### Article 52

(1) In a suspended sentence the court fixes the criminal offender's sentence and at the same time specifies that it will not be carried out if in the time set by the court, which may not be less than 1 year nor more than 5 years (the probationary period), the convicted person does not commit a new crime.

(2) The court may specify in a suspended sentence that the sentence will also be carried out if within a specified period the convicted person does not return the gain obtained through the crime, does not reimburse damage which he caused through the crime, or does not fulfill other obligations envisaged by the provisions of the criminal code. The period for fulfillment of these obligations shall be established by the court within the specified probationary period.

(3) Preventive measures pronounced along with a suspended sentence shall be carried out.

#### Conditions for Pronouncement of a Suspended Sentence

#### Article 53

(1) A suspended sentence may be pronounced when the offender has been awarded a prison sentence of less than 2 years or a fine.

(2) A suspended sentence may be pronounced for crimes for which a prison sentence of 10 years or longer may be pronounced only if the sentence mentioned in Paragraph (1) of this article was fixed by remitting the legally prescribed punishment (Article 42).

(3) A suspended sentence may not be pronounced for crimes for which a prison sentence of less than 1 year cannot be pronounced even by remitting the punishment.

(4) In deciding whether to pronounce a suspended sentence, taking into account the purpose of the suspended sentence, the court shall give especial consideration to the offender's personality, his prior life, his behavior after committing the crime, the extent of his criminal responsibility, and other circumstances under which the crime was committed.

(5) If the sentence includes both a prison sentence and a fine, the suspended sentence may be pronounced for both punishments or only for the prison sentence.

#### Revoking the Suspension of Sentence Because of a New Crime

#### Article 54

(1) The court shall revoke the suspension of sentence if during the probationary period the convicted person commits one crime for which a prison sentence of 2 years or longer is pronounced or commits several such crimes.

(2) If during the probationary period the convicted person commits one crime for which a prison sentence of less than 2 years or a fine is pronounced or commits more than one such crime, following an assessment of all the circumstances pertaining to the crimes committed and to the offender, and in particular the relatedness among the crimes committed, their importance and the motives from which they were committed, the court shall decide whether to revoke the suspension of sentence. In this the court is bound by the prohibition against pronouncing a suspended sentence if a prison sentence of more than 2 years should be pronounced for the crimes covered by the suspended sentence and for the new crimes (Article 53, Paragraph (1)).

(3) Should it revoke the suspension of sentence, the court shall by applying the provisions of Article 48 of this law pronounce a single sentence both for the crime committed previously and for the new crime, taking the punishment from the suspended sentence as fixed.

(4) If it does not revoke the suspension of sentence, the court may pronounce a suspended sentence or a punishment for the new crime which has been committed. If the court finds that a suspended sentence should also be pronounced for the new crime, it shall fix a single sentence by applying the provisions of Article 48 of this law both for the crime previously committed and for the new crime, and shall set a new probationary period, which may not be shorter than 1 year nor longer than 5 years, counted from the date when the new verdict becomes valid. In the case of a convicted person on whom a prison sentence is pronounced for a new

crime, the time spent in serving that sentence shall not be counted against the probationary period established in the suspended sentence for the previous crime.

#### Revoking the Suspension of Sentence Because of a Previous Offense

##### Article 55

(1) A court shall revoke a suspension of sentence if it finds after pronouncing it that the convicted person committed a crime before receiving the suspended sentence and if it judges that there would not have been grounds for pronouncing a suspended sentence if it had known of that offense. In that case it shall apply the provision of Article 54, Paragraph (3), of this law.

(2) If the court does not revoke the suspension of sentence, it shall apply the provision of Article 54, Paragraph (4), of this law.

#### Revoking the Suspension of Sentence Because of Failure To Fulfill Stipulated Obligations

##### Article 56

If in a suspended sentence the convicted person was ordered to fulfill some obligation as mentioned in Article 52, Paragraph (2), of this law, and he did not discharge that obligation in the period specified in the verdict, the court may extend the period for fulfillment of the obligation within the probationary period or may revoke the suspension of sentence and pronounce the sentence which was fixed in the suspended sentence. If it finds that for good cause the convicted person cannot discharge the obligation which was set, the court shall release him from fulfillment of that obligation or shall replace it by another appropriate obligation envisaged by law.

#### Periods of Time Relevant to the Revoking of a Suspension of Sentence

##### Article 57

(1) A suspension of sentence may be revoked within the probationary period. If during that time the convicted person commits a crime which entails the revoking of a suspension of sentence, but this is done by the verdict only after expiration of the probationary period, the suspension of sentence may be revoked no later than 1 year from the date when the probationary period expired.

(2) If within the specified period the convicted person fails to discharge some obligation as mentioned in Article 52, Paragraph (2), of this law, the court may order that the sentence contained in the suspended sentence be executed, but this must be done no later than 1 year from the date when the probationary period expired.

## Suspended Sentence and Protective Surveillance

### Article 58

(1) Under the conditions set forth in the law of the republic and autonomous province the court may specify that an offender against whom sentence is suspended be placed under protective surveillance for a certain time within the probationary period.

(2) Protective surveillance includes the legally prescribed measures of assistance, care, surveillance and protection.

(3) If the court finds during the period of protective surveillance that the purpose of this measure has been fulfilled, it may lift the protective surveillance before expiration of the time specified.

(4) If a convicted person covered by a pronouncement of protective surveillance does not fulfill the obligations the court has placed on him, the court may warn him or replace the previous obligations by other obligations, or extend the period of protective surveillance within the probationary period, or revoke the suspension of sentence.

(5) A competent court may also order protective surveillance for an offender given suspended sentence for a crime provided for in federal law if that measure has been prescribed by the law of the republic or autonomous province in which the offender is being tried.

### Judicial Admonition

### Article 59

(1) Judicial admonition may be pronounced for crimes for which imprisonment of less than 1 year or a fine has been prescribed, when those crimes were committed under such alleviating circumstances as to make them particularly light offenses.

(2) A judicial admonition may also be pronounced when imprisonment up to 3 years has been prescribed for certain crimes and under conditions envisaged by law.

(3) A court may pronounce judicial admonition for more than one coincident crime if the conditions mentioned in Paragraphs (1) and (2) of this article obtain for each of those offenses.

(4) In deciding whether to pronounce a judicial admonition, the court, taking into account the purpose of judicial admonition, shall give especial consideration to the offender's personality, his previous life, his behavior since committing the crime, the degree of his criminal responsibility, and the other circumstances under which the crime was committed.

(5) Judicial admonition may not be pronounced upon military personnel for crimes against the armed forces of the SFRY.

## Title Five. Preventive Measures

### The Purpose of Preventive Measures

#### Article 60

Within the general purpose of the sanctions of criminal law (Article 5, Paragraph (2)) it is the purpose of preventive measures to eliminate situations or conditions which might be conducive to the offender's committing of crimes in the future.

### Type of Preventive Measures

#### Article 61

The following preventive measures may be pronounced on criminal offenders:

- 1) mandatory psychiatric treatment and commitment to a medical institution,
- 2) mandatory psychiatric treatment at liberty,
- 3) mandatory treatment of alcoholics and drug addicts,
- 4) prohibition against performing a particular vocation, engaging in a particular activity, or holding a particular position,
- 5) prohibition of public statements,
- 6) suspension of driver's license,
- 7) confiscation of particular articles,
- 8) deportation of an alien.

### Pronouncement of Preventive Measures

#### Article 62

(1) A court may pronounce one preventive measure or more than one such measure upon a criminal offender when the conditions obtain for their pronouncement as provided for by this law.

(2) Mandatory psychiatric treatment and commitment to a medical institution and mandatory psychiatric treatment at liberty shall be pronounced independently upon criminal offenders who are not accountable because of mental incapacity. These measures may be accompanied by prohibition of

performing a particular occupation, engaging in a particular activity, or holding a particular position, prohibition against public statements, suspension of driver's license, and the confiscation of particular articles.

(3) Suspension of driver's license and the confiscation of particular articles may be pronounced if the offender has received a sentence, suspended sentence or judicial admonition, or if he has been released from punishment.

(4) Mandatory treatment of alcoholics and drug addicts, the prohibition against performing a particular occupation, engaging in a particular activity or holding a particular position, the prohibition against public statements, and the deportation of aliens may be pronounced if the offender has been given a sentence or suspended sentence.

#### Mandatory Psychiatric Treatment and Commitment to a Medical Institution

##### Article 63

(1) A court may pronounce mandatory psychiatric treatment and commitment to a medical institution upon an offender who has committed a crime in a state of mental incapacity or essentially diminished mental capacity if it finds that he is dangerous to those around him and that his treatment and commitment in that institution are required in order to eliminate that danger.

(2) The court shall suspend the measure mentioned in Paragraph (1) of this article if it finds that the offender's treatment and commitment in the medical institution are no longer necessary.

(3) In the case of an offender who committed a crime in a state of essentially diminished mental capacity, should he be given a prison sentence, the time spent in the medical institution shall be counted against the sentence he was given. Should that time be less than the length of the sentence, the court may order that the convicted person be sent to serve the remainder of the sentence or be released on parole. In deciding on the parole, the court shall give especial consideration to the success of the convicted person's treatment, to his state of health, to the time spent in the medical institution and to the remainder of the sentence which the convicted person has not served.

#### Mandatory Psychiatric Treatment at Liberty

##### Article 64

(1) The court shall pronounce mandatory psychiatric treatment at liberty upon an offender who has committed a crime in a state of mental incapacity if it finds that he is dangerous to those around him, but his treatment at liberty is sufficient to remove that danger.

(2) The measure mentioned in Paragraph (1) of this article may also be pronounced against an offender who committed a crime in a state of mental incapacity against whom the measure of mandatory psychiatric treatment and commitment to a medical institution were pronounced when the court, on the basis of the results of treatment, finds that his commitment and treatment in the medical institution are no longer necessary, but that only his treatment at liberty is required.

(3) Under the conditions mentioned in Paragraph (1) of this article the court may also pronounce the measure of mandatory psychiatric treatment at liberty upon an offender whose mental capacity was essentially diminished and who has been paroled on the basis of Article 63, Paragraph (3), of this law.

(4) Mandatory psychiatric treatment at liberty may not last longer than 2 years.

(5) If in the cases mentioned in Paragraphs (1) through (3) of this article the offender does not subject himself to treatment at liberty, or arbitrarily abandons it, or in spite of treatment becomes so dangerous to those around him that he must be committed in a medical institution, the court may pronounce mandatory psychiatric treatment and commitment in a medical institution.

#### Mandatory Treatment of Alcoholics and Drug Addicts

##### Article 65

(1) A court may pronounce the measure of mandatory treatment upon an offender who commits a crime because of his dependence on the constant use of alcohol or narcotics and if there is a danger of his committing future crimes because of that dependence.

(2) The measure mentioned in Paragraph (1) of this article shall be executed in a correctional institution or medical institution or other specialized institution. Time spent in such an institution shall be counted against sentence.

(3) In pronouncing a suspended sentence the court may order an offender to receive treatment at liberty, giving special consideration in this connection to the offender's readiness to undergo such treatment. If the offender does not undergo treatment at liberty without good cause, or if he abandons treatment arbitrarily, the court may order that the suspension of sentence be revoked or that the measure of mandatory treatment of alcoholics and narcotic addicts be forcibly conducted in a medical institution or other specialized institution.

(4) If this measure has been pronounced along with a suspended sentence, it may not last longer than 2 years.



Prohibition Against Performing a Particular Vocation, Engaging in a Particular Activity, or Holding a Particular Position

Article 66

(1) A court may prohibit a criminal offender from engaging in a particular vocation, from performing certain independent activities, or from holding all or certain positions related to the disposition, use, management or handling of public property or with the keeping of that property, if the offender has wrongfully used his vocation, activity or position to commit a crime or if it can be assumed with good cause that his further performance of such activity would be dangerous.

(2) The court shall specify the duration of the measure mentioned in Paragraph (1) of this article, which may not be less than 1 year nor longer than 10 years, counted from the date when the order became valid, but time spent in prison or in a medical institution during treatment and commitment shall not be counted against the period for which this measure was ordered.

(3) In pronouncing a suspended sentence the court may order that the suspension of sentence will be revoked if the offender violates the prohibition against engaging in a particular occupation, performing a particular activity, or holding a particular position.

Prohibition of Public Statements

Article 67

(1) The court may prohibit a criminal offender from making public statements in the press and over the radio and television and at public gatherings and from engaging in publishing activity if the offender has abused access to the public to commit a crime or if it can be assumed with good cause that his further access to the public would be dangerous.

(2) The court shall specify the duration of the measure mentioned in Paragraph (1) of this article, which may not be less than 1 year nor longer than 5 years, that is from the date when the order becomes valid, but time spent in prison or in a medical institution for commitment and treatment shall not be counted against the time for which this measure is ordered.

(3) In pronouncing a suspended sentence the court may order that the suspension of sentence will be revoked if the offender violates the prohibition against public statements.

## Suspension of Driver's License

### Article 68

(1) A court may prohibit a criminal offender whose crime has threatened public transportation from driving a particular type or category of motor vehicle.

(2) The court may pronounce the measure mentioned in Paragraph (1) of this article if it finds that the circumstances under which the crime was committed or the offender's previous violation of traffic regulations show that it is dangerous for him to drive a particular type or category of motor vehicle. In deciding whether to pronounce this measure, the court shall also take into account whether the offender is the driver of a motor vehicle by occupation.

(3) The court shall specify the duration of the measure mentioned in Paragraph (1) of this article, which may not be less than 3 months nor longer than 5 years, counted from the date when the order becomes valid, but time spent in prison or medical institution for commitment and treatment shall not be counted against the duration of this measure.

(4) If the measure mentioned in Paragraph (1) of this article is pronounced on a person who has a foreign driver's license, it shall include prohibition from the use of that license in Yugoslavia for a period from 3 months to 5 years.

(5) In pronouncing a suspended sentence the court may specify that the suspension of sentence will be revoked if the offender violates the prohibition against driving a motor vehicle.

## Confiscation of Particular Articles

### Article 69

(1) Articles used or intended for execution of a crime or which came about by means of the crime may be confiscated if they are the offender's property.

(2) The articles mentioned in Paragraph (1) of this article may also be confiscated when they are not the offender's property when this is required by the interest of general security or by moral reasons, but this shall not affect the rights of third persons to collect damages from the offender.

(3) Mandatory confiscation of particular articles may also be ordered by law.

#### Deportation of an Alien

#### Article 70

(1) The court may order that an alien be deported from the territory of Yugoslavia and prohibited from returning for a period to last from 1 year to 10 years, or forever.

(2) In deliberating whether to pronounce the measure mentioned in Paragraph (1) of this article, the court shall take into account the motive from which the crime was committed, the manner in which the crime was committed, and other circumstances which would suggest that the alien's further stay in Yugoslavia is undesirable.

(3) The time covered by the prohibition from returning to Yugoslavia shall be counted from the date when the order becomes valid, but time spent in prison shall not be counted against the time covered by this measure.

#### Title Six. General Rules on Juvenile Measures and on the Punishment of Minors

#### The Validity of Special Provisions of Criminal Law Pertaining to Minors

#### Article 71

(1) The provisions of this section and the criminal law provisions of the penal codes of the republics and autonomous provinces concerning juveniles shall apply to juvenile delinquents, and other provisions of criminal law contained in the laws of the Federation, the republics and autonomous provinces shall be applied to juveniles only if they do not contradict the special provisions which apply to them.

(2) The special provisions which apply to juvenile delinquents shall also be applied under the conditions envisaged in the provisions of this title to persons over age 18 (age of majority) when they are being tried for criminal offenses which they committed as minors and, in exceptional cases, to persons that committed crimes as young adults.

#### Application of the Sanctions of the Criminal Code to Children Precluded

#### Article 72

The sanctions of the criminal code may not be applied to a juvenile who at the time of committing a crime had not reached age 14 (child).

## Application of the Sanctions of the Criminal Code Toward Juveniles

### Article 73

(1) Only juvenile measures may be pronounced upon a juvenile who at the time of committing a crime has reached age 14, but has not reached age 16 (young juvenile).

(2) Under the conditions provided for in this law juvenile measures may be pronounced against a minor who at the time of committing a crime has reached age 16, but has not reached age 18 (older juvenile), and in exceptional cases he may be sentenced to the reformatory.

(3) Preventive measures may be pronounced against juveniles under the conditions envisaged by the law of the republics or autonomous provinces.

(4) Neither judicial admonition nor suspended sentence may be pronounced against a juvenile.

## The Purpose of Juvenile Measures and Reformatory

### Article 74

Within the general purpose of the sanctions contained in the criminal code (Article 5, Paragraph (2)), it is the purpose of juvenile measures and the reformatory to ensure the upbringing, reformation and proper development of juvenile delinquents by providing them protection and aid, by watching over them, by affording them technical training, and by developing their personal responsibility. It is moreover the purpose of the reformatory to activate strong deterrent on juvenile delinquents so that they do not commit crimes in the future and on other juveniles so that they do not commit crimes.

## Type of Juvenile Measures

### Article 75

(1) The types of juvenile measures are disciplinary measures, the measures of close surveillance, and institutional measures.

(2) Disciplinary measures are pronounced against a juvenile against whom it is not necessary to take more lasting juvenile measures, especially when he has committed a crime out of thoughtlessness or recklessness.

(3) The measures of close surveillance shall be pronounced against a juvenile when more lasting juvenile measures, retraining measures, or treatment with appropriate supervision are required, but it is not necessary to completely separate him from his previous environment.

(4) Institutional measures are pronounced against a juvenile when more lasting juvenile measures, retraining measures or treatment, and his complete separation from his previous environment are required. These measures may not last longer than 5 years.

#### Amendment of the Order Imposing Juvenile Measures and Suspension of Their Execution

##### Article 76

Under the conditions provided by law the court may suspend execution of a juvenile measure, may replace it by another juvenile measure, may make other changes in the juvenile measure pronounced, or may decide not to carry out the juvenile measure, if a certain time has passed since its pronouncement, and execution still has not begun.

#### Punishment of Older Juveniles

##### Article 77

Punishment may be inflicted only on a criminally responsible older juvenile who has committed a crime for which the law prescribes a punishment more severe than imprisonment for 5 years, when because of the serious consequences of the crime and the high degree of criminal responsibility it would not be justified to pronounce a juvenile measure.

#### Reformatory

##### Article 78

(1) A reformatory sentence may not be less than 1 year nor longer than 10 years, and it shall be pronounced in full years or full years and half of a year.

(2) In meting of punishment to an older juvenile for a particular crime, the court may not pronounce a reformatory sentence lasting longer than the prison sentence prescribed for that crime, but it is not bound to the minimum prescribed measure of that punishment.

#### Pronouncement of Juvenile Measures and Reformatory Sentences for Coincident Crimes

##### Article 79

(1) For coincident crimes the court shall pronounce either a juvenile measure alone or a reformatory sentence alone when the legal conditions obtain for pronouncement of the latter punishment and when the court finds that it should be pronounced.

(2) The court shall also proceed in accordance with the provision of Paragraph (1) of this article when it finds after a juvenile measure or reformatory sentence has been pronounced that the juvenile delinquent has committed some crime before or after their pronouncement.

#### Statute of Limitations on Execution of a Reformatory Sentence

##### Article 80

A reformatory sentence may not be executed after expiration of the following periods:

- 1) 10 years from the date of sentencing to a term of more than 5 years in the reformatory,
- 2) 5 years from the date of sentencing to a term of more than 3 years in the reformatory,
- 3) 3 years from the date of sentencing to a term of less than 3 years in the reformatory.

#### Pronouncement of the Sanctions of the Criminal Code on Adults for Crimes Which They Committed as Juveniles

##### Article 81

- (1) An adult who has reached age 21 may not be tried for a crime which he committed as a young juvenile.
- (2) If at the time of his trial an adult has not reached age 21, he may be tried only for crimes for which a punishment more severe than a prison sentence of 5 years has been prescribed. The court may pronounce only the appropriate juvenile institutional measure upon such person. In deliberating whether to pronounce that measure, the court shall take into account all the circumstances of the case, especially the seriousness of the crime committed, the time which has passed since it was committed, the offender's behavior, and the purpose of that juvenile measure.
- (3) For a crime committed as an older juvenile the court may pronounce on an adult the appropriate juvenile institutional measure, or, under the conditions mentioned in Article 77 of this law, a reformatory term. In deliberating which of these sanctions to apply, the court shall take into account all the circumstances of the case, especially the seriousness of the crime committed, the time which has passed since the crime, the offender's behavior, and the purpose these sanctions are supposed to achieve.
- (4) As an exception to the provision of Paragraph (3) of this article, a prison sentence or suspended sentence may be pronounced instead of a reformatory term against an adult who at the time of trial had reached age

21. The prison sentence pronounced in this case has the same legal effect as a reformatory term with regard to rehabilitation, deletion of the conviction from the offender's record and the legal consequences of the conviction.

#### Pronouncement of Juvenile Measures Against Young Adults

##### Article 82

(1) The court may pronounce an appropriate measure of close surveillance or institutional measure against an offender who committed a crime as an adult, but who had not reached age 21 at the time of trial if in view of his personality and the circumstances under which he committed the crime, it can expect that the purpose which would be achieved by pronouncing a punishment can be achieved by means of the juvenile measure.

(2) Under the conditions prescribed by this law a court may pronounce against a young adult against whom a juvenile measure has been pronounced all the preventive measures except prohibition against engaging in a particular occupation, performing a particular activity or holding a particular duty and the prohibition against public statements.

(3) The juvenile measure which has been pronounced may not last longer than the date when the offender reaches age 23.

#### Effect of Juvenile Measures and the Punishment of a Reformatory Term

##### Article 83

Juvenile measures and reformatory terms do not have legal consequences which constitute a prohibition against the acquisition of certain rights (Article 89, Paragraph (2)).

#### Title Seven. Confiscation of Gain Acquired by a Crime

##### Grounds for Confiscation of Gain

##### Article 84

(1) No one may retain the property gain acquired through a crime.

(2) The gain mentioned in Paragraph (1) of this article shall be confiscated by virtue of the court decision which finds that a crime was committed, under the conditions prescribed by this law.

## The Manner of Confiscation of Gain

### Article 85

(1) Money, valuable articles and all other property gain obtained through the crime shall be confiscated from the offender, and if confiscation is not possible, the offender shall be obliged to pay a sum corresponding to the property gain obtained.

(2) Property gain acquired through a crime may be confiscated from individuals to whom it was conveyed without compensation or in exchange for compensation which was not in line with real value if such person knew or might have known that the property gain was acquired through a crime. When property gain has been conveyed to close relatives, it shall be confiscated from them unless they prove that they gave full value as compensation.

### Protection of Victims

### Article 86

(1) If in criminal proceedings an injured party's civil action related to property has been awarded, the court shall pronounce confiscation of the property gain if it exceeds the award to the injured party.

(2) An injured party who in criminal proceedings is referred with regard to his property claim to civil action may sue for his claim to be met from the confiscated value if he files the suit within 6 months from the date of validity of the order referring him to civil action and if within 3 months from the date of validity of the order affirming his claim he sues for it to be met from the confiscated value.

(3) An injured party who does not declare his property claim in criminal proceedings may sue for it to be met from the confiscated value if he has filed suit to establish his claim within a period of 3 months from the day of learning of the judgment whereby the property gain was confiscated, but no later than 2 years from the date of validity of the order to confiscate the gain, and if within a period of 3 months from the date of the order's validity establishing his claim he sues for it to be met from the confiscated value.

### Confiscation of the Property Gain From an Organization or Community

### Article 87

If property gain accrued to an organization of associated labor or other self-managed organization or community because of the crime committed by the offender, such gain shall be confiscated from that organization or community.



## Title Eight. Legal Consequences of a Conviction

### Occurrence of the Legal Consequences of a Conviction

#### Article 88

(1) The legal consequences of a conviction for a crime or for a certain punishment may be the cessation or loss of certain rights or a prohibition against acquiring certain rights.

(2) The legal consequences of a conviction may not ensue when a fine, suspended sentence or judicial admonition were pronounced on the offender for the crime, or when the offender was released from punishment.

(3) The legal consequences of a conviction may be prescribed only by law, and they shall ensue by force of the law which prescribed them.

### Type of Legal Consequences of a Conviction

#### Article 89

(1) The legal consequences of a conviction which pertain to cessation or loss of certain rights are as follows:

1) cessation of the performance of certain tasks or functions in the bodies of sociopolitical communities, other government agencies, organizations of associated labor and other self-managed organizations and communities,

2) termination of employment or termination of the performance of a particular profession, calling or occupation,

3) loss of the rank of a military officer or of the class of a military employee,

4) forfeiture of decorations.

(2) The legal consequences of a conviction which consists of a prohibition of the acquiring of certain rights are as follows:

1) prohibition against the performance of certain tasks or functions in bodies of sociopolitical communities, other government agencies, organizations of associated labor and other self-managed organizations and communities,

2) prohibition against making statements in the press or over radio and television or in public gatherings, prohibition against engaging in publishing activity, or prohibition against participation in establishing associations,

- 3) prohibition against performing a particular profession, calling or occupation or against promotion,
- 4) prohibition against obtaining certain permits or licenses which are granted by decision of government agencies.

#### Commencement and Duration of the Legal Consequences of a Conviction

##### Article 90

- (1) The legal consequences of a conviction ensue on the date when the verdict becomes valid.
- (2) The legal consequences of a conviction which consists of prohibition against the acquisition of certain rights shall last no longer than 10 years from the date when the sentence was served or remitted or became invalid by lapse of time unless the law has prescribed a shorter period for certain legal consequences.
- (3) The legal consequences of the conviction cease when the conviction is deleted from the records.

#### Title Nine. Rehabilitation, Deletion of the Conviction, and the Conditions for Release of Information From Penal Records

##### Rehabilitation

##### Article 91

- (1) When a prison sentence or reformatory term has been served or remitted or has become invalid by lapse of time, convicted persons shall enjoy all the rights established by the constitution, the law, other statutes and regulations and the general acts of self-management, and they may acquire all rights except those restricted by a preventive measure which has been pronounced or by accrual of the legal consequence of a conviction.
- (2) The provision of Paragraph (1) of this article shall also apply to persons on parole unless their rights have been restricted by special legal provisions concerning parole.

#### Termination of Preventive Measures and the Legal Consequences of a Conviction on the Basis of a Court Order

##### Article 92

- (1) A court may order termination of the preventive measure of prohibition from engaging in a particular vocation, performing a particular activity or holding a particular position, the prohibition against public statements and the suspension of driver's license if 3 years have passed from the date when they were applied.

(2) When 3 years have passed from the date when a sentence was served or remitted or became invalid by lapse of time, the court may order termination of the legal consequence of the conviction pertaining to prohibition from acquiring a particular right.

(3) In deliberating whether to order termination of a preventive measure or the legal consequence of a conviction, the court shall take into account the convicted person's behavior since the conviction, his readiness to reimburse damage caused by the crime and to return the property gain acquired through the crime, and other circumstances which suggest the justifiability of terminating the preventive measure or the legal consequence of the conviction.

(4) The rights of third persons based on the conviction shall not be affected by termination of the conviction's legal consequences.

#### Deletion of a Conviction From the Penal Records

#### Article 93

(1) A verdict pronouncing a judicial admonition and a verdict releasing a criminal offender from punishment shall be deleted from the penal records if within a period of 1 year from the date when the court order becomes valid the convicted person has not committed a new crime.

(2) A suspended sentence shall be deleted from the penal records following 1 year from the date of expiration of the probationary period if the convicted person has not committed a new crime in that time.

(3) A conviction calling for payment of a fine shall be deleted from the penal records when 3 years have passed from the date when the fine was paid or remitted or became invalid by lapse of time if the convicted person has not committed a new crime in that time.

(4) Prison sentences of less than 1 year and reformatory terms shall be deleted from the penal records when 5 years have passed from the date when they were served or remitted or became invalid by lapse of time if the convicted person has not committed a new crime in that time.

(5) On petition of the convicted person the court may order that a prison sentence between 1 and 3 years be deleted from the penal records if 5 years have passed from the date when the sentence was served or remitted or became invalid by lapse of time, and in that time the convicted person has not committed a new crime. In deciding whether to delete the conviction the court shall take into account the convicted person's behavior after serving the sentence, the nature of the crime, and other circumstances which might have a bearing on an assessment of the justifiability of deleting the conviction.

(6) Convictions may not be deleted from the penal records so long as preventive measures are in force.

(7) If a prison sentence longer than 3 years has been pronounced on the convicted person within the period before deletion of the conviction, neither previous nor subsequent convictions shall be deleted.

(8) If more than one conviction stands on the records for the same person, they may be deleted from the penal records only simultaneously, and then if the conditions obtain for deletion of each of those convictions.

#### Release of Information From the Penal Records

#### Article 94

(1) Information may be released from the penal records to a court, to the public prosecutor's office and to law enforcement authorities in connection with criminal proceedings being conducted against a person who has already been convicted, to agencies responsible for execution of the sanctions of criminal law and to competent agencies participating in the proceedings of granting amnesty, clemency or the deletion of a conviction.

(2) Information may also be released from the penal records to government agencies, organizations of associated labor and other self-managed organizations and communities when their request is well founded if certain legal consequences of the conviction or preventive measures are still in effect or if a justifiable interest based on law is to be served by this action.

(3) Once the conviction has been deleted, information concerning that conviction shall not be released to anyone except to a court, public prosecutor's office and law enforcement agencies in connection with criminal proceedings being conducted against the person whose conviction was deleted.

(4) No one has the right to demand that a citizen give evidence concerning whether or not he has a previous criminal record.

(5) Individuals may be given information concerning whether they have a criminal record at their request only if they need this information to exercise their rights abroad.

#### Title Ten. Limitation of Actions

#### Limitation of Criminal Prosecution

#### Article 95

(1) Unless otherwise specified in this law, criminal prosecution may not be undertaken after expiration of the following periods of time:

- 1) 25 years from the commission of a crime for which the death penalty or imprisonment for 20 years may be pronounced by law,
  - 2) 15 years from the commission of a crime for which imprisonment lasting more than 10 years may be pronounced by law,
  - 3) 10 years from the commission of a crime for which imprisonment lasting more than 5 years may be pronounced by law,
  - 4) 5 years from the commission of a crime for which imprisonment lasting more than 3 years may be pronounced by law,
  - 5) 3 years from the commission of a crime for which imprisonment lasting more than 1 year may be pronounced by law,
  - 6) 2 years from the commission of a crime for which imprisonment lasting less than 1 year or a fine may be pronounced by law.
- (2) If more than one punishment has been prescribed for the crime, the period of limitation shall be that which applies to the most severe punishment prescribed.

#### Passage and Interrupted Passage of the Period of Limitation on Criminal Prosecution

#### Article 96

- (1) The statute of limitation on criminal prosecution commences from the date when the crime was committed.
- (2) The statute shall not run during time in which by law prosecution may not be begun or extended.
- (3) The running of the statute shall be interrupted by every procedural action taken to prosecute the offender for the crime which was committed.
- (4) The statute shall also be interrupted when the offender commits an equally serious or more serious crime within the period specified by the statute of limitation.
- (5) With each interruption a new date is set for commencement of the running of the statute of limitation.
- (6) The right to criminal prosecution shall in any case lapse upon expiration of twice the amount of time prescribed as the statute of limitation on criminal prosecution.

## Limitation on Execution of Punishment

### Article 97

Unless otherwise specified in this law, a punishment pronounced may not be executed once the following periods of time have expired:

- 1) 25 years from the date of pronouncement of the death penalty or date of sentencing to a prison sentence of 20 years,
- 2) 15 years from the date of sentencing to a prison sentence of more than 10 years,
- 3) 10 years from the date of sentencing to a prison sentence of more than 5 years,
- 4) 5 years from the date of sentencing to a prison sentence of more than 3 years,
- 5) 3 years from the date of sentencing to a prison sentence of more than 1 year,
- 6) 2 years from the date of sentencing to a prison sentence of less than 1 year or pronouncement of a fine.

## Limitation on Execution of Secondary Punishment and Preventive Measures

### Article 98

- (1) The statute of limitation on execution of confiscation of property expires when 10 years have passed from the date when the verdict announcing that punishment became valid.
- (2) The statute of limitation on execution of a pecuniary punishment which is a secondary penalty expires when 2 years have passed from the date when the verdict pronouncing that punishment became valid.
- (3) The statute of limitation on execution of the preventive measures of mandatory psychiatric treatment and commitment in a medical institution, mandatory psychiatric treatment at liberty, and confiscation of particular articles expires when 5 years have passed from the date when the order pronouncing those measures became valid.
- (4) The statute of limitation of the preventive measures of prohibition against engaging in a particular occupation, performing a particular activity or holding a particular position, prohibition against public statements, and suspension of driver's license expires upon expiration of the time for which those measures were pronounced.

## Passage and Interrupted Passage of the Statute of Limitation on Execution of Punishment

### Article 99

(1) The statute of limitation on execution of punishment commences to run from the date when the verdict became valid, and if suspension of sentence has been revoked--on the date when the order to revoke it became valid.

(2) The period of limitation shall not run during time in which execution of the punishment may not by law be undertaken.

(3) The running of the statute shall be interrupted by every action taken by the competent agency to execute the punishment.

(4) Following each interruption the statute begins to run anew.

(5) The statute of limitation on execution of punishment shall in any case expire upon expiration of twice the time of the period of limitation on execution of punishment as prescribed by law.

(6) The provisions of Paragraphs (2) through (5) of this article shall also be suitably applied to the lapsing of execution of preventive measures.

## No Limitation on the Crimes of Genocide and Wartime Atrocities

### Article 100

Criminal prosecution and execution of punishment shall not lapse for the crimes envisaged in Articles 141 through 145 of this law, nor for crimes for which such lapsing may not accrue under international treaties.

## Title Eleven. Amnesty and Pardon

### Amnesty

### Article 101

Individuals covered by an act of amnesty shall be granted freedom from prosecution or complete or partial relief from execution of punishment, the punishment pronounced shall be replaced by a less severe punishment, deletion of the conviction shall be ordered, or a certain legal consequence of a conviction shall be listed.

## Pardon

### Article 102

(1) By a pardon a particular individual is granted by name, released from prosecution or complete or partial release from execution of punishment, the punishment pronounced is replaced by a less severe punishment or suspended sentence, or deletion of the conviction is ordered, or a particular legal consequence of the conviction of preventive measure is lifted or a shorter duration is ordered for it.

(2) A pardon may not be used to order the lifting or shorter duration of the following preventive measures: the prohibition on the engaging in a particular occupation, performing a particular activity or holding a particular position, prohibition against public statements, suspension of driver's license of offenders who are chauffeurs by occupation, or deportation.

## The Effect of Amnesty and Pardon on the Rights of Third Persons

### Article 103

The rights of third persons based on a conviction shall not be affected by the granting of amnesty or pardon.

## Title Twelve. Validity of Yugoslav Criminal Legislation With Respect to the Place Where the Crime Was Committed

### Validity of Yugoslav Criminal Legislation for Anyone Committing a Crime on the Territory of the SFRY

### Article 104

(1) Yugoslav criminal legislation applies to anyone committing a crime on the territory of the SFRY.

(2) Yugoslav criminal legislation also applies to anyone committing a crime on a Yugoslav vessel regardless of where the vessel is located at the time when the crime was committed.

(3) Yugoslav criminal legislation also applies to anyone committing a crime in a Yugoslav civilian aircraft while in flight or in a Yugoslav military aircraft regardless of where the aircraft is located at the time when the crime is committed.



## Validity of Yugoslav Criminal Legislation With Respect to Certain Crimes Committed Abroad

### Article 105

Yugoslav criminal legislation is valid for anyone abroad committing a crime as mentioned in Articles 114 through 133 and Articles 135 through 138 of this law, or a crime as mentioned in Article 168 of this law if the crime involves the counterfeiting of Yugoslav money.

## Validity of Yugoslav Criminal Legislation for a Yugoslav National Committing a Crime Abroad

### Article 106

Yugoslav criminal legislation shall apply to a Yugoslav national even when he commits abroad some other crime than the crimes referred to in Article 105 of this law, should he be apprehended on the territory of the SFRY or extradited.

## Validity of Yugoslav Criminal Legislation for a Foreigner Committing a Crime Abroad

### Article 107

(1) Yugoslav criminal legislation shall also apply to a foreigner who outside the territory of the SFRY commits a crime toward it or a Yugoslav national even when the crimes referred to in Article 105 of this law are not involved, should he be apprehended on the territory of the SFRY or extradited to Yugoslavia.

(2) Yugoslav criminal legislation shall also apply to a foreign national who commits a crime abroad against a foreign state or foreign national for which imprisonment of 5 years or a heavier penalty may be pronounced under that legislation should he be apprehended on the territory of Yugoslavia and not extradited to the foreign state. Unless otherwise specified by this law, the court may not in such a case pronounce a more severe penalty than the one prescribed by the law of the country in which the crime was committed.

## Special Conditions Governing Prosecution

### Article 108

(1) If in the cases mentioned in Article 104 of this law criminal proceedings have been initiated or completed in a foreign state, prosecution shall be undertaken in the SFRY only on the basis of permission of the federal public prosecutor for crimes envisaged in the federal criminal code or on the basis of permission from the public prosecutor of the

republic or autonomous province for crimes envisaged in the criminal code of the republic or autonomous province.

(2) In the cases referred to in Articles 106 and 107 of this law prosecution shall not be undertaken:

1) if the offender has served the entire punishment to which he was sentenced abroad,

2) if the offender was released abroad by a valid verdict or if his punishment became invalid by lapse of time or was remitted,

3) if under the foreign law the crime is prosecuted on the basis of a complaint by the injured party, and such complaint has not been made.

(3) In the cases mentioned in Articles 106 and 107 of this law prosecution shall be undertaken only when the crime is also punishable under the law of the country in which the crime was committed. When in the cases mentioned in Article 106 and Article 107, Paragraph (1), of this law the crime is not punishable under the law of the country in which the act was committed, prosecution may be undertaken only on the basis of permission from the federal public prosecutor for crimes envisaged in the federal criminal code or on the basis of permission from the public prosecutor of the republic or autonomous province for crimes envisaged in the criminal code of the republic or autonomous province.

(4) In the cases mentioned in Article 107, Paragraph (2), of this law prosecution may be undertaken in the SFRY only on the basis of permission from the federal public prosecutor regardless of the law of the country in which the crime was committed if it is a crime which at the time when it was committed was deemed a crime under the general legal principles recognized by the international community.

(5) In a case as mentioned in Article 104 of this law the prosecution of a foreign national may be relinquished to the foreign state under the condition of reciprocity.

Credit for Time Spent in Pretrial Custody and Prison Time Served Abroad

#### Article 109

Time spent in pretrial custody, detention during extradition proceedings, and time which the offender has served in prison on the basis of the verdict of the foreign court shall be credited against the punishment pronounced by the Yugoslav court for the same crime, but if the punishments are not of the same type, credit shall be granted according to the assessment of the court.

Title Thirteen. Validity of the Criminal Code of the Republic and Autonomous Province With Respect to the Place Where the Crime Was Committed

Validity of the Criminal Code of the Republic and Autonomous Province for Crimes Committed on the Territory of the Republic or the Autonomous Province

Article 110

(1) The criminal code of the republic or autonomous province shall apply to anyone who on the territory of the republic or autonomous province commits a crime envisaged by that code regardless of where he is being tried for that crime.

(2) If a crime has been committed on the territory of more than one republic or autonomous province, and the offender is being tried in one of those republics or autonomous provinces, the law of the republic or autonomous province in which the offender is being tried shall be applied.

(3) If a crime has been committed on the territory of more than one republic or autonomous province, and the offender is being tried outside the territory of those republics or autonomous provinces, the law to be applied shall be that one of those republics or autonomous provinces which is less severe on the offender, and if those laws are equivalent, the law of the republic or autonomous province on the territory of which commission of the crime began shall be applied.

Application of Provisions Concerning Juvenile Measures and Punishment of Juveniles

Article 111

When a juvenile or adult who was a juvenile at the time when a crime was committed is being tried for a crime envisaged in the criminal code of the Federation, the republic or autonomous province, the provisions concerning juvenile measures and punishment of juveniles which are in effect at the place where the criminal offender is being tried shall be applied.

Validity of the Criminal Code of the Republic and Autonomous Province for Crimes Committed Outside the Territory of the SFRY

Article 112

The criminal code of the republic or autonomous province in which the offender is being tried shall be applied to crimes envisaged by the law of the republic or autonomous province when these crimes have been committed outside the territory of the SFRY, including crimes committed on a Yugoslav vessel or in a Yugoslav aircraft while they are outside the territory of the SFRY.

## Title Fourteen. The Meaning of Expressions Used in This Law

### Article 113

- (1) By the "territory of the SFRY" is meant the land, coastal sea and inland waters, as well as the air space over them.
- (2) By the "territory of the republic or autonomous province" is meant the land, coastal sea and inland waters within its boundaries, as well as the air space over them.
- (3) By "Yugoslav criminal legislation" is meant all the criminal law provisions contained in the laws of the Federation, the republics and the autonomous provinces.
- (4) The term "officials," when they are indicated as criminal offenders, refers to the following: elective or appointed officials of the SFRY Assembly, the Federal Executive Council, federal administrative agencies and other federal agencies and federal organizations performing certain specific administrative, technical and other tasks within the rights and duties of the Federation; persons who perform their official duties permanently or occasionally in federal agencies or the federal organizations mentioned; military personnel if the crime has not been covered by Title Twenty of this law.
- (5) The term "military personnel" refers to the following: a draftee serving his period of compulsory military service, the cadet of a military school, a noncommissioned officer, commissioned officer, or military employee in active service, a person from the reserves while on military duty as a reservist, and a civilian performing a certain military duty.
- (6) When officials or military personnel are referred to as the perpetrators of certain crimes, the persons enumerated in Paragraphs (4) and (5) of this article may be the perpetrators of those crimes unless it follows from the features of the particular crime or the particular statute that the perpetrator could be only a person belonging to those classes.
- (7) A document is any article which is suitable or designed for use as proof of some fact which has a bearing on legal relations.
- (8) Money is coins and paper currency which are in circulation on the basis of law in the SFRY or a foreign state.
- (9) The term "tokens of value" is understood to include foreign tokens of value as well.
- (10) The term "force" is understood to include the use of hypnosis or intoxicants in order to render someone unconscious against his will or incapacitate him for resistance.

(11) The term "motor vehicle" is understood to mean any motor-propelled conveyance for land, water or air travel.

#### Special Section

### Title Fifteen. Crimes Against the Foundations of the Socialist Social System of Self-Management and Security of the SFRY

#### Counterrevolutionary Threat to the Social System

##### Article 114

Whosoever commits an act aimed at infringing or overthrowing the rule of the working class and the working people, at undermining the socioeconomic system, sociopolitical system or system of self-management established by the constitution, at unconstitutional overthrow of the bodies of social self-management and government, their executive agencies or representatives of the highest government bodies, at undermining the country's economic basis, at shattering the brotherhood and unity or at destroying the equality of the nationalities and ethnic minorities, or at unconstitutional alteration of the federal system of government,

shall be punished by imprisonment for at least 1 year.

#### Recognition of Capitulation and Occupation

##### Article 115

(1) A Yugoslav national who commits an act aimed at furthering recognition of capitulation or occupation of the SFRY or of some part of it,

shall be punished by imprisonment for at least 5 years.

(2) A Yugoslav national who signs or recognizes capitulation or who accepts or recognizes occupation of the SFRY or of some part of it,

shall be punished by imprisonment for at least 10 years or the death penalty.

#### Threat to Territorial Integrity

##### Article 116

(1) Whosoever commits an act aimed at separating some portion of Yugoslav territory by force or unconstitutional means or at annexation of some part of that territory by another state,

shall be punished by imprisonment for at least 5 years.

(2) Whosoever commits an act aimed at altering the boundaries between the republics and autonomous provinces by force of unconstitutional means, shall be punished by imprisonment for at least 1 year.

#### Threat to Independence

#### Article 117

A Yugoslav national who commits an act aimed at reducing the SFRY to a position of subordination or dependence with respect to some other state, shall be punished by imprisonment for at least 1 year.

#### Obstruction of Combat Against the Enemy

#### Article 118

(1) A Yugoslav national who in wartime or during an armed conflict obstructs Yugoslav nationals or the nationals of its allies in waging combat against the enemy,

shall be punished by imprisonment for at least 5 years.

(2) A Yugoslav national who in wartime or during an armed conflict uses propaganda or some other means of dissuading Yugoslav nationals or citizens of its allies from waging combat against the enemy,

shall be punished by imprisonment for at least 1 year.

#### Service in Enemy Armed Forces

#### Article 119

(1) A Yugoslav national who in wartime or in time of armed conflict serves in the armed forces of an enemy or in other hostile armed formations or participates in the war or in the armed conflict as a fighter against the SFRY or its allies,

shall be punished by imprisonment for at least 3 years.

(2) Whosoever recruits Yugoslav nationals for service in the armed forces of an enemy or in other hostile armed formations or for participation in war or armed conflict against the SFRY or its allies,

shall be punished by imprisonment for at least 5 years.

## Aiding an Enemy

### Article 120

(1) The Yugoslav national who in wartime aids an enemy in carrying out requisition, confiscation of food or other goods or in conducting any other forcible measures whatsoever against the population,

shall be punished by imprisonment for at least 1 year.

(2) A Yugoslav national who in wartime engages in political or economic collaboration with the enemy shall be liable to the punishment mentioned in Paragraph (1) of this article.

## Undermining Military Might and Defensive Capacity

### Article 121

(1) Whoever destroys, makes unfit for use or enables to pass into enemy hands defense installations, defense facilities, emplacements, weapons or other military and defense materiel or surrenders troops to the enemy, or in some other manner hinders or jeopardizes military or defense measures,

shall be punished by imprisonment for at least 3 years.

(2) A Yugoslav national who commits an act as mentioned in Paragraph (1) of this article with the intent of aiding an enemy,

shall be punished by imprisonment for at least 5 years.

## Murder Motivated by Hostility Toward the SFRY

### Article 122

Whoever deprives another of life from motives of hostility toward the SFRY, shall be punished by imprisonment for at least 10 years or the death penalty.

## Violence Motivated by Hostility Toward the SFRY

### Article 123

(1) Whoever out of hostile motives toward the SFRY abducts a person or commits other violence against a person or destroys property of sizable value,

shall be punished by imprisonment for at least 5 years.

(2) The perpetrator of an act as mentioned in Paragraph (1) of this article who voluntarily releases a person whose freedom of movement has been restricted may be punished less severely or released from punishment.

#### Armed Uprising

#### Article 124

(1) Whosoever participates in the preparation of an armed uprising or in the armed uprising itself,

shall be punished by imprisonment for at least 1 year.

(2) Whosoever organizes the preparation of an armed uprising or participates in an armed uprising as an organizer or leader,

shall be punished by imprisonment for at least 5 years.

#### Terrorism

#### Article 125

Whosoever motivated by hostility toward the SFRY causes an explosion or fire or undertakes any other generally dangerous act or acts of violence which might create a feeling of personal insecurity in citizens or a group of citizens,

shall be punished by imprisonment for at least 5 years.

#### Destruction of Important Economic Facilities

#### Article 126

Whosoever motivated by hostility toward the SFRY destroys or damages by demolition, setting of fire or in some other manner a bridge, factory, water main, long-distance power transmission line, dam, vehicle, communication equipment, silo, warehouse, depot, building, sizable stores of food or livestock feed, inventories of supplies or finished goods, industrial, transportation or other installation, or other facility which has substantial importance to the economy,

shall be punished by imprisonment for at least 5 years.

#### Sabotage

#### Article 127

Whosoever motivated by hostility toward the SFRY fails to perform his official duty or work obligation through deception, concealment or other



similar manner or performs them improperly or who in performance of those duties or work obligations damages production equipment and by such action causes destruction or damage of an installation, of sizable quantities of products, finished goods or supplies, or the destruction or alteration of poorly built structures, or disorganization, downtime or failure to fulfill plans in government agencies or organizations of associated labor or other self-managed organizations and communities,

shall be punished by imprisonment for at least 3 years.

#### Espionage

#### Article 128

(1) Whosoever communicates, conveys or makes accessible confidential military, economic or official information or documents to a foreign state, foreign organization or individual serving them, or who obtains such information or documents with the intent of communicating or conveying them to a foreign state, foreign organization or person serving them,

shall be punished by imprisonment for at least 3 years.

(2) Whosoever sets up an intelligence service in the SFRY for a foreign state or organization,

shall be punished by imprisonment for at least 5 years.

(3) Whosoever enrolls in a foreign intelligence service, gathers intelligence for it, or facilitates its operation in some other manner,

shall be punished by imprisonment for at least 3 years.

#### Divulgence of a State Secret

#### Article 129

(1) Whosoever without authorization communicates, conveys or makes accessible data or documents which constitute a state secret to an unauthorized person,

shall be punished by imprisonment for at least 1 year.

(2) If the offense mentioned in Paragraph (1) of this article is committed during a state of war or immediate danger of war or has jeopardized the security or economic or military might of the SFRY,

the offender shall be punished by imprisonment for at least 3 years or by imprisonment for 20 years.

(3) If the offense mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for at least 6 months and no more than 5 years.

(4) Information or documents whose disclosure has had or could have had harmful consequences for the country's political, economic or military interests shall be regarded as a state secret.

Conclusion of Treaties to the Detriment of the SFRY

#### Article 130

Whosoever as a representative of the SFRY, a republic or autonomous province, or other sociopolitical community abuses his position or authority and concludes a treaty or performs some other transaction with a foreign state or international or foreign organization to the detriment of the SFRY,

shall be punished by imprisonment for at least 1 year.

Participation in Hostile Activity

#### Article 131

A Yugoslav national who with the intent of engaging in hostile activity against his country enters into contact with a foreign state, foreign or refuge organization or group of persons, or aids them in the performance of hostile activity,

shall be punished by imprisonment for at least 1 year.

Sending and Infiltration of Armed Groups, Weapons and Ammunition Onto the Territory of the SFRY

#### Article 132

Whosoever sends or infiltrates onto the territory of the SFRY armed groups, terrorists, spies, commandos, weapons, explosives, poisons, equipment, ammunition or other materiel for the conduct of hostile activity,

shall be punished by imprisonment for at least 5 years.

## Hostile Propaganda

### Article 133

(1) Whosoever in an article, leaflet, drawing, speech or some other manner calls for or urges the overthrow of the rule of the working class and the working people, the unconstitutional alteration of the socialist social system of self-management, disruption of the brotherhood and unity and equality of the nationalities and ethnic minorities, the overthrow of the bodies of social self-management and government or their executive agencies, resistance to the decisions of competent government bodies and self-management which are as important to the protection and development of the socialist relations of self-management or the country's security or defense, or maliciously and untruthfully portrays sociopolitical conditions in the country,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) Whosoever commits an offense as mentioned in Paragraph (1) of this article with aid or under influence from abroad,

shall be punished by imprisonment for at least 3 years.

(3) Whosoever sends or infiltrates agitators or propaganda material onto the territory of the SFRY to perform an offense as mentioned in Paragraph (1) of this article,

shall be punished by imprisonment for at least 1 year.

(4) Whosoever with the intent of distribution prepares or reproduces hostile propaganda material or whosoever has such material in his possession though he knows that it is intended for distribution,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

Incitement of Hatred, Dissension or Intolerance Based on Nationality, Race and Religion

### Article 134

(1) Whosoever through propaganda or in some other manner arouses or inflames hatred or dissension on the basis of nationality, race or religion among the nationalities and ethnic minorities living in the SFRY,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) Whosoever by insulting a citizen or in other manner arouses intolerance based on nationality, race or religion,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(3) Whosoever commits the offense as mentioned in Paragraphs (1) and (2) of this article on a systematic basis, by taking advantage of his position or authority, in a group, or who has thereby caused disorder, violence or other serious consequences,

shall be punished by imprisonment for at least 1 year for the offense mentioned in Paragraph (1), and by imprisonment for at least 6 months and not more than 5 years for the offense mentioned in Paragraph (2).

#### Violation of Territorial Sovereignty

##### Article 135

Whosoever in violation of the rules of international law makes an incursion onto the territory of the SFRY,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

#### Confederation for Purposes of Hostile Activity

##### Article 136

(1) Whosoever creates a conspiracy, band, group or other association of persons to commit the crimes mentioned in Article 114 through Article 119, Paragraph (2), Articles 120 through 123, Articles 125 through 127 and Articles 131 and 132 of this law, or whosoever creates the group in order to infiltrate or send Yugoslav nationals abroad to conduct hostile activity against the SFRY,

shall be punished by imprisonment for at least 5 years.

(2) Whosoever becomes a member of some confederation as mentioned in Paragraph (1) of this article,

shall be punished by imprisonment for at least 1 year.

(3) A member of a confederacy as mentioned in Paragraph (1) of this article who exposes the confederacy before he has committed for it or as its member any crime provided for in the provisions of this title,

shall be punished by imprisonment for not more than 3 years, and he may also be released from punishment.

## Accessory After the Fact

### Article 137

(1) Whosoever conceals the perpetrator of some crime as mentioned in Articles 114 through 136 and Articles 138 and 139 of this law, gives him shelter, food, supplies, money or other materials, makes it possible for him to communicate, and whosoever undertakes actions aimed at obstructing the detection or apprehension of the perpetrator, or who aids him in some other manner,

shall be punished by imprisonment for at least 1 year.

(2) The punishment for the offense mentioned in Paragraph (1) of this article may not be more severe in either type or amount than the punishment prescribed for the crime committed by the offender who was aided.

## Punishment for Preparation

### Article 138

Whosoever prepares the execution of a crime as mentioned in Articles 121 through 123 and Articles 125 through 128 of this law,

shall be punished by imprisonment for at least 1 year.

## Punishment for the Most Serious Forms of Crimes

### Article 139

(1) For a crime as mentioned in Article 114, Article 115, Paragraph (1), Articles 116 through 121, Articles 123 through 128, Article 133, and Article 136, Paragraph (1), of this law, when it resulted in the death of some person or endangered human life or was accompanied by grave violence or large-scale destruction, or jeopardized the country's security or economic or military strength, or in other particularly aggravated cases,

the offender shall be punished by imprisonment for at least 10 years or the death penalty.

(2) The penalty mentioned in Paragraph (1) of this article shall also be imposed on anyone who commits a crime as mentioned in Article 114, Article 115, Paragraph (1), and Articles 116, 117, 123 through 128, Article 132, and Article 136, Paragraphs (1) and (2), of this law if it was committed during a state of war or in a case of an immediate danger of war.

## Pronouncement of the Penalty of Confiscation of Property

### Article 140

The penalty of confiscation of property may also be pronounced against an offender for the crimes envisaged in this title.

## Title Sixteen. Crimes Against Humanity and International Law

### Genocide

#### Article 141

Whosoever with an intent of completely or partially destroying some national, ethnic, racial or religious group orders the murder of members of the group or the inflicting of serious bodily injuries on them or serious impairment of their physical or mental health, or the forcible expatriation of the population, or placement of the group under such conditions of life as to completely or partially eradicate them, or the enforcement of measures which would prevent childbirth among members of the group, or the forcible resettlement of children into another group, or whosoever commits any of these acts with that intent,

shall be punished by imprisonment for at least 5 years or the death penalty.

### Wartime Atrocities Against the Civilian Population

#### Article 142

Whosoever in violation of the rules of international law during wartime, armed conflict or occupation orders the killing, torture or inhumane treatment of the civilian population or the conduct of biological experiments on civilians, or the inflicting of great suffering or injuries to their physical integrity or health, the expatriation or resettlement or forcible relinquishment of its nationality or conversion to another religion, compulsion to engage in prostitution or rape, the use of intimidation and terror, the taking of hostages, collective infliction of punishment, unlawful placement in concentration camps and other unlawful confinement, deprivation of the right to due process and impartial trial, compulsion to serve in the armed forces of an enemy power or in its intelligence service or administration, forced labor, starvation of the population, and the confiscation of property, and whosoever plunders the property of civilians, unlawfully and willfully destroys or appropriates sizable amounts of property not justified by military needs, takes unlawful and disproportionately large contributions and requisitions, reduces the value of the domestic currency or unlawfully issues money, or whosoever commits any of the offenses mentioned,

shall be punished by imprisonment for at least 5 years or the death penalty.

#### Wartime Atrocities Against the Wounded and Sick

##### Article 143

Whosoever in violation of the rules of international law orders during wartime or armed conflict that the wounded, sick, shipwreck survivors or medical personnel be killed, tortured or subjected to inhumane treatment, that biological experiments be performed on them, or that they be subjected to great suffering or injury to their physical integrity or health, or that the supplies and inventories of medical institutions or units be destroyed or appropriated unlawfully and arbitrarily, without justification on the basis of military needs, or whosoever commits any of the acts mentioned above,

shall be punished by imprisonment for at least 5 years or the death penalty.

#### Wartime Atrocities Against Prisoners of War

##### Article 144

Whosoever in violation of the rules of international law orders that prisoners of war be killed, tortured or subjected to inhumane treatment, that biological experiments be performed on them, that they be subjected to great suffering or injury to their physical integrity or health, that they be forced to render service in the armed forces of the enemy, or that they be deprived of their rights to due process and impartial trial, or whosoever commits any of the offenses mentioned above,

shall be punished by imprisonment for at least 5 years or the death penalty.

#### Organization of a Group and Incitement To Commit Genocide and War Atrocities

##### Article 145

(1) Whosoever organizes a group to commit the crimes mentioned in Articles 141 through 144 of this law,

shall be punished by imprisonment for at least 5 years.

(2) Whosoever becomes a member of a group as mentioned in Paragraph (1) of this article,

shall be punished by imprisonment for at least 1 year.

(3) A member of a group as mentioned in Paragraph (1) of this article who exposes the group before committing a crime as its member or on its behalf,

shall be punished by imprisonment for not more than 3 years, but such person may also be released from punishment.

(4) Whosoever calls for or urges the committing of the crimes referred to in Articles 141 through 144 of this law,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

#### Unlawful Killing and Wounding of the Enemy

##### Article 146

(1) Whosoever in violation of the rules of international law during war-time or armed conflict kills or wounds an enemy who has laid down his arms or unconditionally surrendered or is not in possession of means of defending himself,

shall be punished by imprisonment for at least 1 year.

(2) If the homicide referred to in Paragraph (1) of this article was committed in a cruel and treacherous manner, out of a pursuit of gain or some other base motive, or if more than one person was killed,

the offender shall be punished by imprisonment for at least 10 years or the death penalty.

#### Unlawful Looting of Articles From the Killed and Wounded on the Battlefield

##### Article 147

(1) Whosoever orders the unlawful looting of articles from the killed and wounded on the battlefield or whosoever takes such articles,

shall be punished by imprisonment for at least 1 year and not more than 5 years.

(2) If the crime mentioned in Paragraph (1) of this article was committed in a ruthless manner,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.



## Use of Prohibited Weapons

### Article 148

(1) Whosoever in wartime or armed conflict orders the use of weapons or methods of combat which are prohibited by the rules of international law, or whosoever himself uses them,

shall be punished by imprisonment for at least 1 year.

(2) If more than one person has died because of the crime mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

## Disrespect of an Emissary

### Article 149

Whosoever in violation of the rules of international law in wartime or armed conflict insults, abuses or detains an emissary or his escort or obstructs his return or in some other manner violates their inviolability,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Brutal Treatment of Wounded, Sick and Prisoners of War

### Article 150

Whosoever in violation of the rules of international law inflicts brutal treatment on wounded, sick or prisoners of war or prevents or obstructs them from exercising the rights they are entitled to under those rules,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Destruction of Cultural and Historical Monuments

### Article 151

Whosoever in violation of the rules of international law during wartime or armed conflict destroys cultural or historical monuments and structures or institutions intended for the purposes of science, art, the raising of children or humanitarian purposes,

shall be punished by imprisonment for at least 1 year.

## Incitement to Aggressive War

### Article 152

Whosoever appeals for or incites to aggressive warfare,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

## Abuse of International Insignia

### Article 153

(1) Whosoever abuses or without authorization carries the flag or wears the insignia of the Organization of the United Nations or the insignia or flag of the Red Cross or equivalent insignia or other recognized international insignia which are used to mark certain facilities to protect them from military operations,

shall be punished by imprisonment for not more than 3 years.

(2) Whosoever commits an act as mentioned in Paragraph (1) of this article in a zone of military operations,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Racial and Other Discrimination

### Article 154

(1) Whosoever on the basis of difference in race, skin color, nationality or ethnic origin violates basic human rights and freedoms recognized by the international community,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) The punishment mentioned in Paragraph (1) of this article shall be imposed on anyone who persecutes organizations or individuals because of their promotion of human equality.

(3) Whosoever spreads ideas of the superiority of one race over another or preaches racial enmity or encourages racial discrimination,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

## Establishment of Bondage and Transport of Persons in Bondage

### Article 155

(1) Whosoever places another in bondage or trafficks in persons who are in bondage or urges another to sell his freedom or the freedom of people he maintains,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) Whosoever transports people who are in bondage from one country to another,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Pronouncement of the Punishment of Confiscation of Property

### Article 156

The punishment of confiscation of property may also be pronounced against the perpetrator for the crimes envisaged in Articles 141 through 145 and Article 148 of this law.

## Title Seventeen. Crimes Against the Reputation of the SFRY, a Foreign State or an International Organization

### Insult to the Reputation of the SFRY

#### Article 157

Whosoever subjects to ridicule the Socialist Federal Republic of Yugoslavia, its flag, seal or anthem, its highest bodies of government or the representatives of those bodies, its armed forces or its commander in chief,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

### Insult to the Reputation of a Foreign State

#### Article 158

Whosoever subjects to ridicule a foreign state, its flag, seal or anthem, or the head of a foreign state or diplomatic representative of the foreign state in the SFRY,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

## Insult to the Reputation of an International Organization

### Article 159

Whosoever subjects to ridicule the Organization of the United Nations, the International Red Cross or other international organization recognized by the SFRY or their representatives,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

## Prosecution for Crimes Against the Reputation of a Foreign State and International Organization

### Article 160

Prosecution for crimes as mentioned in Articles 158 and 159 of this law shall be undertaken on the basis of permission from the federal public prosecutor.

## Title Eighteen. Crimes Against the Economy and the Unity of the Yugoslav Market

### Violation of the Principle of Equality in the Conduct of Economic Activity

#### Article 161

(1) Whosoever abuses his official position or authority and restricts the free movement and pooling of labor and productive assets in a particular region, infringes upon or restricts the rights of an organization of associated labor to engage in commerce and the rendering of services in a particular region, places an organization of associated labor in an unequal position with respect to other organizations with respect to operating conditions or the conduct of commerce and rendering of services, or restricts the free exchange of goods and services,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) The punishment mentioned in Paragraph (1) of this article shall also be imposed on anyone who uses his social position or influence to commit the offense mentioned in that paragraph.

(3) In a particularly aggravated case of the crime mentioned in Paragraphs (1) and (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

## Violation of the Principle of Equality in Hiring

### Article 162

Whosoever infringes upon or restricts a citizen's right to free access to employment anywhere in Yugoslavia under the general conditions that prevail at the place where the job vacancy exists,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Creation of a Monopolistic Position and the Causing of Disturbances on the Market

### Article 163

(1) Whosoever in an organization of associated labor, other self-managed organization or community concludes an agreement whereby another organization or community is restricted in the free movement of goods and services in a particular region or in its dealings with particular organizations, or whosoever concludes an agreement creating in some other manner a monopolistic position of some organization on the market,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) The punishment mentioned in Paragraph (1) of this article shall be imposed on anyone in an organization of associated labor, other self-managed organization or community who causes a disturbance on the market by means of unjustified accumulation of goods or withdrawal of goods from commerce.

(3) In a particularly aggravated case of the offense mentioned in Paragraphs (1) and (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

## Disloyal Competition in Export and Import Transactions

### Article 164

(1) A representative of an organization of associated labor who, knowing that another Yugoslav organization has reached a prior agreement with a foreign firm concerning an export or import transaction or that a contract is about to be concluded concerning such a transaction, submits a bid to that firm for the sale or purchase of the same type of goods or to perform the same service, whereby the foreign firm refrains from concluding the original contract or concludes the contract under less favorable conditions to the Yugoslav organization of associated labor,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) If the perpetrator of the offense mentioned in Paragraph (1) of this article has obtained personal gain or in some other particularly aggravated case,

he shall be punished by imprisonment for at least 1 year and not more than 10 years.

#### Unauthorized Use of Another's Mark in Commerce

#### Article 165

Whosoever with the intent of deceiving customers or users of services uses someone else's logotype, stamp or trademark or someone else's special labeling of goods, or who incorporates certain features of another's device in his own logotype, stamp or trademark or his own special labeling of goods,

shall be punished by imprisonment for not more than 3 years.

#### Unauthorized Mediation or Representation in Export and Import Transactions

#### Article 166

(1) Whosoever without authorization engages in mediation or representation in export and import transactions,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) If the perpetrator of the offense mentioned in Paragraph (1) of this article has organized a network of agents or has obtained considerable property gain,

he shall be punished by imprisonment for at least 1 year and not more than 10 years.

#### Trade in Gold Coins, Foreign Currency and Foreign Exchange

#### Article 167

(1) Whosoever contrary to federal statutes purchases, sells or exchanges gold coins, foreign currency, foreign exchange or gold in a value exceeding 10,000 dinars,

shall be punished by imprisonment for not more than 3 years.

(2) If the perpetrator of the offense mentioned in Paragraph (1) of this article has organized a network of buyers and sellers or agents or is engaged in trade in the articles mentioned in that paragraph,

he shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) The gold coins, foreign currency, foreign exchange or gold which was involved in the crime mentioned in Paragraphs (1) and (2) of this article shall be confiscated.

#### Counterfeiting

#### Article 168

(1) Whosoever makes false money with the intent of putting it in circulation as real money or whoever alters real money with the intention of putting it into circulation or whosoever puts such counterfeit money in circulation,

shall be punished by imprisonment for at least 1 year.

(2) The punishment mentioned in Paragraph (1) of this article shall be imposed on anyone who obtains counterfeit money in the intention of placing it in circulation as real money.

(3) If because of the offenses mentioned in Paragraphs (1) and (2) of this article there has been or could have been a disturbance in the country's economy,

the offender shall be punished by imprisonment for at least 5 years or imprisonment shall last 20 years.

(4) Whosoever puts counterfeit money which he has received into circulation as real money or whosoever knows that counterfeit money has been made or that counterfeit money has been placed in circulation, and does not report this,

shall be punished by a fine or imprisonment for not more than 1 year.

(5) The counterfeit money shall be confiscated.

#### Counterfeiting or Forgery of Tokens of Value

#### Article 169

(1) Whosoever makes false meter impressions or postage stamps or other tokens of value or bonds or other securities issued on the basis of a federal statute or whosoever modifies any of those authentic tokens or

securities in the intention of using them as real ones or of giving them to someone else for use, or whosoever uses such false tokens or papers as real ones or obtains them for that purpose,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) If a disturbance in the country's economy has occurred or could have occurred because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or imprisonment of 20 years.

(3) Whosoever by removing the stamp whereby the tokens mentioned in Paragraph (1) of this article are canceled or in some other manner attempts to give those tokens the appearance that they have not been used, or whosoever uses the used tokens or sells them as if they were valid,

shall be punished by imprisonment for not more than 3 years.

(4) The counterfeited or forged tokens of value and securities shall be confiscated.

#### The Making, Procurement or Conveyance of Equipment for Counterfeiting

##### Article 170

(1) Whosoever makes, purchases, sells or makes available for use the means of counterfeiting money, false tokens of value or false securities issued on the basis of a federal statute,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) The equipment mentioned in Paragraph (1) of this article shall be confiscated.

#### Forgery of Emblems Used to Mark Goods and Counterfeiting of Measures and Weights

##### Article 171

(1) Whosoever with the intent of using them as real ones makes false emblems to mark domestic or foreign goods, such as seals, brands or stamps used to mark gold, silver, livestock, wood or any other goods, or whosoever modifies real emblems of this kind, or whosoever uses counterfeit emblems as authentic ones,

shall be punished by imprisonment for at least 3 months and not more than 5 years.



(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced on anyone who makes counterfeit weights or measures.

(3) Whoever without authorization makes, purchases, sells or makes available for use the means of making emblems for marking goods or counterfeit weights and measures,

shall be punished by imprisonment for not more than 3 years.

(4) Counterfeit emblems, weights and measures and the means of making them shall be confiscated.

#### The Writing of Bad Checks

#### Article 172

(1) Whoever writes a bad check or knowingly passes a bad check,

shall be punished by imprisonment for not more than 3 years.

(2) If the perpetrator of the offense mentioned in Paragraph (1) of this article has obtained illegal property gain for himself or another,

he shall be punished by imprisonment for at least 3 months and not more than 5 years.

(3) If property gain in an amount greater than 30,000 dinars was acquired by the offense mentioned in Paragraph (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) If the property gain obtained by the offense mentioned in Paragraph (2) of this article amounted to more than 100,000 dinars,

the offender shall be punished by imprisonment for at least 5 years or imprisonment for 20 years.

#### Pronouncement of the Punishment of Confiscation of Property

#### Article 173

The punishment of confiscation of property may also be pronounced upon an offender for the crimes envisaged in Article 164, Paragraph (2), Article 166, Paragraph (2), Article 167, Paragraph (2), Article 168, Paragraphs (1) through (3), Article 169, Paragraphs (1) and (2), and Article 172, Paragraphs (3) and (4), of this law.

Title Nineteen. Crimes Against Official Duties of Officials in Federal Bodies and Agencies

Malfesance

Article 174

(1) An official who uses his official position or authority, exceeds the limits of his official authority or does not perform his official duty with the intent of obtaining some advantage for himself or another or of inflicting some damage on another,

shall be punished by imprisonment for not more than 3 years.

(2) If considerable damage ensued or another's right was seriously violated because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

(3) If property gain was unlawfully obtained through the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 6 months and not more than 5 years.

(4) If the value of the property gain acquired exceeds 30,000 dinars,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

Peculation

Article 175

(1) An official who appropriates money, securities or other movable property entrusted to him by his official position in the intent of obtaining unlawful property gain for himself or another,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) If the property gain acquired through the offense mentioned in Paragraph (1) of this article exceeds the value of 30,000 dinars,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

## Pecuniary Fraud in Office

### Article 176

(1) An official who in the conduct of his office and with the intent of obtaining for himself or another unlawful property gain by submitting false accounts or in some other manner deceiving the authorized person into making an unlawful payment,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) If the property gain obtained through the offense mentioned in Paragraph (1) of this article exceeds the value of 30,000 dinars,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

## Theft in Office

### Article 177

(1) An official who commits one or more crimes as mentioned in Articles 174 through 176 of this law, if the value of the property gain exceeds 100,000 dinars,

shall be punished by imprisonment for at least 3 years.

(2) In a particularly aggravated case of a crime as mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or imprisonment for 20 years.

## Misappropriation of Public Funds

### Article 178

An official who without authorization uses money, securities or other movable property entrusted to him in his office or without authorization allows another to use them,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

## Bribetaking

### Article 179

(1) An official who seeks or accepts a gift or any gain whatsoever or who accepts a promise of a gift or some other gain for performing an official action within the limits of his official authorization which ought not to be performed, or who does not perform an official act which should have been performed,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) In a particularly aggravated case of a crime as mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 3 years.

(3) An official who seeks or accepts a gift or other benefit or who accepts a promise of a gift or other benefit for performing an official act which would have to be performed or for not performing an official act which ought not to have been performed,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(4) An official who after performance or nonperformance of an official act as referred to in Paragraphs (1) through (3) of this article and in that connection seeks or receives a gift or other benefit,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(5) The gift or other property gain received shall be confiscated.

## Unlawful Intercession

### Article 180

(1) An official who receives an award or some other gain for using his official position in interceding to have some official action taken or not taken,

shall be punished by imprisonment for not more than 3 years.

(2) An official who uses his official position to intercede to have an official action performed which ought not to have been performed or to have an official action not performed which should have been performed,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(3) If an award or other advantage has been received for the intercession mentioned in Paragraph (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

#### Unlawful Conduct by Judges

#### Article 181

(1) A judge or lay judge of a federal court or military court who with the intent of obtaining some benefit for another or inflicting damage on another adopts an illegal act or violates the law in some other manner,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) In a particularly aggravated case of a crime as mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 3 years and not more than 10 years.

#### Delinquent Conduct in Office

#### Article 182

(1) An official who by violating laws or other statutes or general acts, through remissness in performance of the duty of oversight or who in some other manner obviously is acting irresponsibly in performance of his office even though he was aware or should have been aware and could have been aware that a serious injury to the rights of another or property damage might occur, if such injury or damage does occur in an amount exceeding 10,000 dinars,

shall be punished by imprisonment for not more than 3 years.

(2) If a serious injury to the rights of another has occurred or property damage exceeding 100,000 dinars because of the crime mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Disclosure of Official Secrets

### Article 183

(1) An official who without authorization communicates, conveys or in some other manner makes accessible to another information which constitutes an official secret or who procures such information with the intent of conveying it to an unauthorized person,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article has been committed for the sake of gain or if the information was particularly confidential, or if the offense was committed so that the information might be published or used abroad,

the offender shall be punished by imprisonment for at least 1 year.

(3) If the offense mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 3 years.

(4) The term "official secret" is understood to cover information proclaimed an official secret by law, other statute, general act or decision of the competent body or agency, as well as information not proclaimed an official secret, but whose disclosure, because of its importance, might obviously cause serious harmful consequences for the government.

(5) The provisions of Paragraphs (1) through (4) of this article shall also apply to an individual who has divulged an official secret after termination of his status as an official.

## Forgery of Official Documents

### Article 184

(1) An official who enters untrue information in an official document, book or paper or does not enter some important datum, or by his signature or official seal certifies an official document, book or paper whose content is untruthful, or who by his signature or official seal aids in the making of an official document, book or paper whose content is untruthful,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced upon an official who uses an untruthful official document, book or paper in official procedure as though it were truthful or who destroys or conceals or significantly damages or in some other manner renders unusable an official document, book or paper.

#### Unlawful Collection and Payment

##### Article 185

(1) An official who collects from someone something he is not required to pay or collects more than he is required to pay or who in payment or delivery of articles pays or delivers less than required,

shall be punished by imprisonment for not more than 1 year.

(2) In a particularly aggravated case of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Violation of the Principle of the Equality of Citizens

##### Article 186

An official who on the basis of a difference in nationality, race, religion, ethnic origin, sex, language, education or social status withholds or restricts the rights of citizens as established by the constitution, law or other statute or general act or who on the basis of such difference grants preference or favors to citizens,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Infringement of the Right to Self-Management

##### Article 187

An official who in the conduct of his office obstructs or frustrates the exercise of the right to self-management in violation of the constitution, law or other statute or general act or in some other unlawful manner,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

## Unlawful Influence on the Bodies of Self-Management

### Article 188

(1) An official who uses his office to prevail upon a body of self-management to make a decision which violates the constitution, law or other statute or general act, should this result in the making of that decision,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced upon an official who uses his office to prevail upon a body of self-management to conceal a crime whose prosecution is automatic [that is, no private complaint is required--Translator's note] or an economic violation committed in the organization of associated labor, other self-managed organization or community or government agency, with the result that the crime or economic violation is not reported.

(3) In a particularly aggravated case of the crime mentioned in Paragraphs (1) and (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 8 years.

### False Arrest

### Article 189

(1) An official who in the conduct of his office unlawfully imprisons another, detains a prisoner, or in some other manner deprives him of freedom of movement,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the false imprisonment has lasted longer than 30 days or was done in a cruel manner, or if the health of the person falsely imprisoned has been severely impaired as a result, or if other serious consequences have accrued,

the offender shall be punished by imprisonment for at least 1 year and not more than 8 years.

(3) If the person falsely arrested has lost his life as a consequence,

the offender shall be punished by imprisonment for at least 3 years.



## Extortion of Testimony

### Article 190

(1) An official who in conduct of his office uses force, threat or other impermissible means or an impermissible manner with the intent of extorting testimony or some other statement from an accused person, witness, expert or other person,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the extortion of testimony or statement involved serious violence, or if particularly serious consequences accrued for the accused person in criminal proceedings because of the extorted testimony,

the offender shall be punished by imprisonment for at least 1 year.

## Personal Abuse in Office

### Article 191

An official who in the conduct of his office abuses or insults another or in general behaves toward him in a manner which offends his dignity as a human being,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

## Violation of the Principle of the Inviolability of the Private Dwelling

### Article 192

(1) An official who in conduct of his office enters the dwelling of another or enclosed premises without authorization or does not remove himself from such premises at the request of the authorized person,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(2) The offender shall be punishable for an attempt of the offense mentioned in Paragraph (1) of this article.

## Unlawful Search

### Article 193

An official who in the conduct of his office illegally conducts a search of a dwelling, premises or persons,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

#### Violation of the Principle of the Privacy of Letters or Other Mail

##### Article 194

(1) An official who in conduct of his office opens another's letter or telegram or any other closed letter or piece of mail without authorization or who in some other manner violates their privacy or who without authorization keeps in his possession, conceals, destroys or conveys to another a letter, telegram, closed letter or piece of mail belonging to another,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(2) An official who communicates to another a secret he has learned by violating the privacy of another's letter, telegram or any other closed letter or piece of mail with the intent of achieving gain for himself or another or of inflicting some injury on another or who uses such private information,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

#### Unauthorized Eavesdropping and Taping

##### Article 195

(1) An official who in the conduct of his office uses special devices without authorization to eavesdrop or tape a conversation or statement not intended for him,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(2) The punishment mentioned in Paragraph (1) of this article shall be pronounced upon an official who enables an unauthorized person to learn of a conversation or statement which has been obtained without authorization by eavesdropping or taping.

#### Violation of the Right To File a Legal Instrument

##### Article 196

An official who abuses his office or authority in preventing another from exercising his right to submit an appeal or any other legal means, grievance, plea or petition,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

#### Nonexecution of an Order Reinstating a Worker

##### Article 197

An official who does not act in accordance with a valid order reinstating a worker in a federal agency,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

#### Unlawful Allowance of the Performance of Certain Functions

##### Article 198

An official who makes it possible for an individual to perform certain functions in a federal agency although aware that with regard to those functions that individual is bound by a valid preventive measure prohibiting him from engaging in a particular vocation, performing a particular activity or holding a particular position or the preventive measure of prohibition of the performance of certain duties, or that the prohibition against the performance of certain functions has accrued as a legal consequence of the conviction,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

#### Failure To Report a Crime

##### Article 199

(1) An official who does not report a crime he has learned of in the conduct of his office, if under law a punishment of 5 years of imprisonment or more severe punishment may be pronounced for that crime, and the crime is prosecuted automatically,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(2) An official shall not be punished for the crime mentioned in Paragraph (1) of this article if the perpetrator is his spouse, blood relative in direct line, brother, sister, adoptive parent or adopted child, or who is the perpetrator's attorney or physician.

## Pronouncement of the Punishment of Confiscation of Property

### Article 200

The punishment of confiscation of property may also be pronounced upon the offender for the crimes envisaged in Article 174, Paragraph (4), Article 175, Paragraph (2), Article 176, Paragraph (2), Article 177, Article 179, Paragraphs (1) and (2), Article 181, Paragraph (2), and Article 183, Paragraph (2), of this law.

## Title Twenty. Crimes Against the Armed Forces of the SFRY

### Nonexecution of an Order and Refusal To Execute an Order

#### Article 201

(1) A member of the armed forces who does not carry out an order or refuses to carry out an order of his superior when the order is related to performance of official duties, and serious harmful consequences accrue to the service thereby, or the service is seriously jeopardized,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(2) Whosoever persuades a member of the armed forces to commit a crime as mentioned in Paragraph (1) of this article,

shall be punished by imprisonment for not more than 1 year.

(3) In a particularly aggravated case of the crime mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) A member of the armed forces who fails to execute an order of his superior as mentioned in Paragraph (1) of this article out of negligence,

shall be punished by imprisonment for not more than 1 year.

### Refusal To Accept and Use Arms

#### Article 202

(1) A member of the armed forces who refuses to accept arms or use a weapon according to the order or service regulation,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) A reservist who without justification refuses to accept a weapon from the competent authority which is being allotted to him in connection with his service in the reserves of the armed forces,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

Mutiny

#### Article 203

(1) A member of the armed forces who in concert with other military personnel opposes an order of a superior related to performance of official duty and refuses to carry out the order or refuses to perform his duty,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article was committed in an organized manner,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If a weapon was used in committing the offense mentioned in Paragraphs (1) and (2) of this article or if some person was killed with intent in the commission of the crime,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

(4) The organizer of the crime mentioned in Paragraph (2) of this article or the military officer who participates in any manner whatsoever in the crime mentioned in Paragraphs (1) and (2) of this article,

shall be punished by imprisonment for at least 3 years.

(5) Whosoever prepares a crime as mentioned in Paragraph (2) of this article,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(6) A military officer who in a case of the crime mentioned in Paragraphs (1) through (3) of this article does not take the necessary steps to restore order,

shall be punished by imprisonment for at least 1 year and not more than 5 years.

Resisting a Sentry, Guard, Patrol, Duty Officer or Other Member of the  
Armed Forces Performing Similar Duties

Article 204

A member of the armed forces who resists a sentry, guard, patrol, duty officer or other member of the armed forces performing a similar duty, while they are performing their official duties, and a member of the armed forces who does not heed their challenge or does not carry out our refuses to carry out their order, and serious harmful consequences accrue thereby for the service, or the service is seriously jeopardized,

shall be punished by imprisonment for not more than 3 years.

Coercion of a Member of the Armed Forces in Performance of Official Duties

Article 205

(1) Whosoever by force or with a threat of the direct use of force obstructs a member of the armed forces in performance of his official duties or in that manner compels him to perform his official duties,

shall be punished by imprisonment for not more than 3 years.

(2) Whosoever attempts an offense as mentioned in Paragraph (1) of this article shall not be punished.

(3) In a particularly aggravated case of the offenses mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

Assault of a Member of the Armed Forces in Performance of Official Duties

Article 206

(1) Whosoever assaults or seriously threatens to assault a member of the armed forces performing his official duty,

shall be punished by imprisonment for not more than 3 years.

(2) If in committing the offense mentioned in Paragraph (1) of this article the offender inflicts slight physical injury on the member of the armed forces or threatens the use of a weapon,

he shall be punished by imprisonment for at least 3 months and not more than 5 years.

(3) If in the commission of the crime mentioned in Paragraph (1) of this article serious physical injury was inflicted on the member of the armed forces or serious consequences accrued for the service,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) If the member of the armed forces was killed with intent in the commission of the crime mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 10 years or the death penalty.

Less Severe Punishment for the Crimes Mentioned in Article 201 and Articles 206 Through 206

#### Article 207

If the perpetrator of the crimes mentioned in Article 201, Paragraphs (1), (2) and (4), Article 203, Paragraph (1), Article 204, Article 205, Paragraphs (1) and (2), and Article 206, Paragraphs (1) and (2), of this law was provoked by unlawful or brutal behavior by a member of the armed forces,

he may be punished less severely or released from punishment.

Personal Abuse of a Subordinate or Junior

#### Article 208

(1) A military officer who in performance of his official duty or in relation to official duties abuses a subordinate or junior or treats him in such manner as to offend his dignity as a human being,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article was committed toward more than one person,

the offender shall be punished by imprisonment for at least 1 year and not more than 8 years.

Violation of Guard, Patrol or Other Similar Duty

#### Article 209

(1) A member of the armed forces who behaves contrary to the regulations concerning guard or patrol duty, duty as officer of the day or officer of

the deck, or other similar duty, and serious harmful consequences accrue for the service thereby or the service is seriously jeopardized,

shall be punished by imprisonment for not more than 1 year.

(2) If the offense mentioned in Paragraph (1) of this article was committed at a depot for weapons, ammunition or explosives, or at some other important facility,

the offender shall be punished by imprisonment for at least 3 months and not more than 3 years.

(3) If serious bodily injury or the death of some person occurred because of the offense mentioned in Paragraphs (1) and (2) of this article, or if there were sizable property damage, or if other serious consequences accrued,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) If the offenses mentioned in Paragraphs (1) and (2) of this article were committed out of negligence,

the offender shall be punished by imprisonment for not more than 6 months for the offense mentioned in Paragraph (1) and by imprisonment for not more than 1 year for the offense mentioned in Paragraph (2).

(5) If the consequence mentioned in Paragraph (3) of this article accrued because of the crime mentioned in Paragraph (4) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Violation in Guarding the National Border

#### Article 210

(1) A member of the armed forces who in serving on the border behaves contrary to the regulations concerning protection of the national border, and if serious harmful consequences accrue thereby for the service, or the service is seriously jeopardized,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

(2) If serious bodily injury or the death of some person occurred because of the crime mentioned in Paragraph (1) of this article, or there was sizable property damage, or other serious consequences accrued,



the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If the crime mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 1 year.

(4) If the consequence mentioned in Paragraph (2) of this article occurred because of the offense mentioned in Paragraph (3) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Filing of Untruthful Responses and Reports

##### Article 211

(1) A member of the armed forces who in performance of his duty submits a response or report containing untruthful information or fails to mention in a response or report some fact which ought not to have been omitted, and if serious harmful consequences accrue thereby for the service, or the service is seriously jeopardized,

shall be punished by imprisonment for not more than 1 year.

(2) If the crime mentioned in Paragraph (1) of this article involves the filing of a report or response of particular importance or if serious consequences accrued,

the offender shall be punished by imprisonment for at least 1 year and not more than 5 years.

(3) If the crime mentioned in Paragraph (2) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 1 year.

#### Failure To Take Steps To Protect a Military Unit

##### Article 212

(1) A military officer who does not take the measures prescribed, ordered or otherwise obviously necessary to protect the lives and health of men whose safety is entrusted to him or to maintain in proper condition facilities, articles and materiel which contribute to combat readiness, to ensure regular supply of food, equipment and materiel to the units entrusted to him, to protect and care for livestock, or who does not properly and punctually do the work of securing or secure the facilities

entrusted to him, thereby jeopardizing human lives or seriously threatening human health or property of great value,

shall be punished by imprisonment for not more than 3 years.

(2) If some individual suffered a serious physical injury or death because of the crime mentioned in Paragraph (1) of this article, or sizable property damage occurred, or other serious consequences accrued,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If the offense mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 1 year.

(4) If a consequence referred to in Paragraph (2) of this article occurred because of the offense mentioned in Paragraph (3) of this article,

the offender shall be punished by imprisonment for at least 6 months and not more than 5 years.

Failure To Take Security or Precautionary Measures in Military Exercises

#### Article 213

(1) A member of the armed forces who in exercises, training or performance of an experiment fails to take the necessary safety or precautionary measures prescribed, ordered or obviously necessary, and thereby jeopardizes human life or seriously threatens human health or property of great value,

shall be punished by imprisonment for not more than 3 years.

(2) If some individual has suffered a serious physical injury or death because of the offense mentioned in Paragraph (1) of this article, or sizable property damage has occurred, or other serious consequences have accrued,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If the offense mentioned in Paragraph (1) of this article has been committed out of negligence,

the offender shall be punished by imprisonment for not more than 1 year.

(4) If a consequence referred to in Paragraph (2) of this article has occurred because of an offense as mentioned in Paragraph (3) of this article,

the offender shall be punished by imprisonment for at least 6 months and not more than 5 years.

#### Failure To Appear for Induction and Evasion of Military Service

##### Article 214

(1) Whosoever fails without good cause to appear at the appointed time for induction, to receive war orders or weapons, or to do required military service, military training or other military service, though he was summoned by an individual or general call,

shall be punished by a fine or imprisonment for not more than 1 year.

(2) Whosoever conceals himself so as to evade the obligation mentioned in Paragraph (1) of this article, though he has been summoned by individual or general call,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(3) Whosoever leaves the country or remains abroad in order to evade recruitment or induction for required military service, or military training or other military service,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) Whosoever persuades more than one person to commit the offense mentioned in Paragraphs (1) through (3) of this article,

shall be punished by imprisonment for not more than 3 years for the offense mentioned in Paragraph (1), and by imprisonment for at least 1 year for the offense referred in Paragraphs (2) and (3).

(5) The perpetrator of the offense mentioned in Paragraphs (2) and (3) of this article who voluntarily turns himself in to the competent government agency may be punished less severely or released from punishment.

#### Evasion of Military Service by Self-Inflicted Incapacity or Deception

##### Article 215

(1) Whosoever with the intent of evading military service or of being assigned to an easier duty injures himself or in some other manner temporarily incapacitates himself for military service, or allows another to temporarily incapacitate him, as well as anyone who temporarily incapacitates another with or without his permission with the aforementioned intent,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If permanent unfitness for military service has occurred through commission of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) Whosoever with the intent mentioned in Paragraph (1) of this article feigns illness or uses a false document for himself or another or behaves in some other deceptive manner,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Unlawful Exemption From Military Service

##### Article 216

Whosoever abuses his position or authority to achieve the exemption from duty or assignment to lighter duty of a member of the armed forces or person subject to a military obligation,

shall be punished by imprisonment for at least 1 year and not more than 8 years.

#### Absence Without Leave and Desertion From the Armed Forces

##### Article 217

(1) A member of the armed forces who arbitrarily leaves his unit or service and does not return to his duty within 5 days or who within the same period does not return to his duty from authorized leave outside the unit of service,

shall be punished by imprisonment for not more than 1 year.

(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced on a member of the armed forces who is absent from his unit or service without leave more than twice for periods less than 5 days and upon a member of the armed forces who arbitrarily leaves his unit or service during the performance of an important mission or when the unit is on combat alert.

(3) A member of the armed forces who conceals himself so as to evade service in the armed forces or who arbitrarily leaves his unit or service and does not return to duty within a period of 30 days or who does not return within that period from an authorized leave away from his unit or service,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(4) A member of the armed forces who leaves the country or remains abroad in order to evade service in the armed forces,

shall be punished by imprisonment for at least 1 year.

(5) A member of the armed forces who prepares to flee abroad in order to evade service in the armed forces,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(6) Whosoever persuades a member of the armed forces to commit the offense mentioned in Paragraphs (1) and (2) of this article,

shall be punished by imprisonment for not more than 1 year.

(7) The perpetrator of the offenses mentioned in Paragraphs (3) and (4) of this article who voluntarily surrenders himself to the competent government body may be punished less severely.

#### Evasion of Registration and Examination

#### Article 218

Whosoever without good cause and notwithstanding a legally established obligation fails to appear for personal registration or examination or opposes such registration or examination or fails to appear for or opposes registration or examination of vehicles, livestock, buildings and other facilities necessary to the armed forces, or whosoever makes inaccurate statements or gives inaccurate information during such registration or examination,

shall be punished by a fine or imprisonment for not more than 1 year.

#### Failure To Discharge a Material Commitment

#### Article 219

Whosoever contrary to a legally established obligation and without good cause fails to make articles and other means available to military authorities at the appointed time and in the prescribed condition or to bring livestock,

shall be punished by a fine or imprisonment for not more than 1 year.

## Delinquent Manufacture and Acceptance of Materiel

### Article 220

(1) A member of the armed forces or a responsible person in an organization of associated labor, other organization, community or institution working to meet the needs of national defense who is remiss in performing his duty or the obligation entrusted to him, with the result that weapons, ammunition, explosives or other materiel are not manufactured on time or do not meet the quality standard,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced upon a member of the armed forces who in delinquent performance of his duty accepts articles to supply, equip or arm the armed forces when they do not meet the prescribed conditions or compacts.

(3) If serious consequences have accrued because of the offenses mentioned in Paragraphs (1) and (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) If the offenses mentioned in Paragraphs (1) and (2) of this article were committed out of negligence,

the offender shall be punished by imprisonment for not more than 3 years.

(5) If a consequence referred to in Paragraph (3) of this article has accrued because of the offense mentioned in Paragraph (4) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

## Improper and Careless Handling of an Issued Weapon

### Article 221

(1) Whosoever improperly or carelessly maintains or keeps a weapon, ammunition or explosives issued to him and belonging to a military unit or military institution or who improperly or carelessly handles them thereby causing their serious damage, destruction or disappearance,

shall be punished by imprisonment for not more than 1 year.

(2) The manager of a depot of weapons, ammunition, explosives or other materiel who does not take measures to secure them or maintain them, thereby causing the damage, destruction or disappearance of this materiel,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(3) If sizable property damage has accrued because of the offense mentioned in Paragraph (2) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) If the crime mentioned in Paragraph (2) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 3 years.

(5) If a consequence referred to in Paragraph (3) of this article occurred because of the offense mentioned in Paragraph (4) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Unlawful Possession of an Issued Weapon

#### Article 222

Whosoever appropriates, alienates, pledges, gives to another for use, damages or destroys a weapon, ammunition or explosive issued to him for use and whose purpose is to meet the needs of national defense,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

#### Theft of Weapons or Parts of Weapons

#### Article 223

(1) Whosoever steals arms, ammunition, explosives or a part of a weapon used for national defense,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the value of the articles mentioned in Paragraph (1) of this article exceeds 30,000 dinars, or if the theft was committed by breaking into enclosed buildings, rooms, safes, closets or other enclosed spaces, or if it were committed by more than one person acting in concert to commit theft, or if it was committed in a particularly dangerous or wanton manner or if it was committed by a person who had in his possession some weapon or dangerous implement for purposes of assault or defense, or if it was committed during a fire, flood or similar disaster,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If the value of the articles mentioned in Paragraph (1) of this article exceeds 100,000 dinars,

the offender shall be punished by imprisonment for at least 5 years or imprisonment for 20 years.

#### Divulgence of a Military Secret

#### Article 224

(1) Whosoever without authorization communicates, conveys or in other manner makes accessible to another information which constitutes a military secret, or whosoever procures such information with the intent of conveying it to an unauthorized person,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article was committed for gain, or if particularly confidential information was involved, or if the crime was committed so that the information might be published or used abroad,

the offender shall be punished by imprisonment for at least 1 year.

(3) If the crime mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 3 years.

(4) The term "military secret" refers to information proclaimed a military secret by law, other statute, general act or decision of the competent authority, and also information not declared a military secret, but whose disclosure, because of its importance, could obviously cause serious harmful consequences to the armed forces and for their preparations to defend the country.

#### Unauthorized Entry of Military Facilities and the Making of Drawings or Sketches of Military Facilities and Weapons

#### Article 225

(1) Whosoever enters a military facility without authorization though knowing that such entry is prohibited,

shall be punished by imprisonment for not more than 1 year.



(2) Whosoever makes sketches or drawings of military facilities or weapons without authorization or photographs them or records them in some other manner,

shall be punished by imprisonment for not more than 3 years.

Punishment for Crimes Committed During a State of War or in a Case of Immediate Danger of War

#### Article 226

(1) If a crime as mentioned in Article 201, Paragraphs (1), (2) and (4), Article 202, Paragraph (2), Article 203, Paragraphs (1), (5) and (6), Article 204, Article 205, Paragraphs (1) and (2), Article 206, Paragraphs (1) and (2), Article 208, Paragraph (1), Article 209, Paragraphs (1), (2), (4) and (5), Article 210, Paragraphs (1), (3) and (4), Article 211, Paragraphs (1) and (3), Article 212, Paragraphs (1), (3) and (4), Article 213, Paragraphs (1), (3) and (4), Article 214, Paragraph (1), Article 217, Paragraphs (1), (2) and (6), Articles 218 and 219, Article 220, Paragraphs (1), (2), (4) and (5), Article 221, Paragraphs (1), (2), (4) and (5), Article 222, Article 223, Paragraph (1), Article 224, Paragraph (3), and Article 225 of this law are committed during a state of war or in a case of immediate danger of war,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) If the crimes mentioned in Article 205, Paragraph (3), Article 208, Paragraph (2), Article 211, Paragraph (2), Article 212, Paragraph (2), Article 213, Paragraph (2), Article 214, Paragraph (4), in connection with Paragraph (1), Article 217, Paragraph (5), Article 221, Paragraph (3), Article 223, Paragraph (2), and Article 224, Paragraph (1), of this law are committed during a state of war or in a case of immediate danger of war,

the offender shall be punished by imprisonment for not more than 3 years.

(3) If the crimes referred to in Article 201, Paragraph (3), Article 202, Paragraph (1), Article 203, Paragraphs (2) and (4), Article 206, Paragraph (3), Article 209, Paragraph (3), Article 210, Paragraph (2), Article 214, Paragraphs (2) and (3), and Paragraph (4) in connection with Paragraphs (2) and (3), Articles 215 and 216, Article 217, Paragraphs (3) and (4), Article 220, Paragraph (3), Article 223, Paragraph (3), and Article 224, Paragraph (2), of this law are committed during a state of war or in a case of immediate danger of war,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

## Surrender to the Enemy

### Article 227

A member of the armed forces who in wartime goes over to the side of the enemy or surrenders to the enemy,

shall be punished by imprisonment for at least 5 years or the death penalty.

## Failure to Discharge Duties in Combat

### Article 228

(1) A member of the armed forces who in combat or immediately before combat does not discharge his duties, thereby causing harmful consequences for the military unit or the combat situation,

shall be punished by imprisonment for at least 1 year.

(2) If serious consequences have accrued because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

## Unauthorized Abandonment of Duties During Combat

### Article 229

(1) A member of the armed forces who during combat or immediately prior to combat abandons his duties without authorization or in a fraudulent manner,

shall be punished by imprisonment for not more than 3 years.

(2) If serious consequences have accrued because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

## Abandonment of a Position Contrary to Orders

### Article 230

(1) A military officer who contrary to orders abandons a position with the unit entrusted to him before he has exhausted all the possibilities for defense,

shall be punished by imprisonment for at least 3 years.

(2) If serious consequences have accrued because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

#### Premature Abandoning of a Damaged Ship or Aircraft

##### Article 231

(1) A captain of a naval ship who in wartime abandons a damaged ship before he has discharged his duty under ship service regulations,

shall be punished by imprisonment for at least 3 years.

(2) A crew member of a naval vessel who in wartime abandons a damaged ship before the ship's captain has given the order to abandon ship or a crew member of a military aircraft who in wartime abandons a damaged military aircraft before discharging his duty in accordance with regulations concerning flight and aircraft use,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If serious consequences have accrued because of the offense mentioned in Paragraphs ((1) and (2) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

#### Abandonment of Undamaged Materiel to the Enemy

##### Article 232

(1) A member of the armed forces who allows an undamaged military depot, ship, aircraft, tank or other materiel to fall into the hands of the enemy,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced on anyone who contrary to orders allows installations or other facilities important to national defense to fall into the enemy's hands without being essentially damaged.

(3) If the offenses mentioned in Paragraphs (1) and (2) of this article were committed out of negligence,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Weakening of Combat Morale and the Combat Situation

##### Article 233

(1) A member of the armed forces who during combat or immediately prior to combat weakens the combat morale of the unit or acts detrimentally to the combat situation by flight, by throwing down weapons or ammunition, by spreading fear, by creating disorder or confusion, or in any other manner,

shall be punished by imprisonment for at least 5 years.

(2) A military officer who does not take the necessary steps toward his subordinate and junior who during combat or immediately prior to combat spreads fear among the soldiers, creates disorder or confusion in the unit, or in some other manner weakens the combat morale of the unit or acts detrimentally to the combat situation,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) If serious consequences have accrued because of the offenses mentioned in Paragraphs (1) and (2) of this article,

the offender shall be punished by imprisonment for at least 10 years or the death penalty.

#### Failure To See to a Military Unit's Security

##### Article 234

(1) A military officer who in wartime fails to see to his unit's security, so that it incurs harmful consequences as a result,

shall be punished by imprisonment for at least 3 years.

(2) If serious consequences accrue for the unit because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

(3) If the offense mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(4) If a consequence referred to in Paragraph (2) of this article has accrued because of the offense mentioned in Paragraph (3) of this article, the offender shall be punished by imprisonment for at least 3 years.

#### Failure To Inform Military Authorities

#### Article 235

(1) Whosoever in a state of war or in a case of immediate danger of war does not inform his superior, senior or the military command concerning an event which obviously necessitates the urgent taking of military steps, shall be punished by imprisonment for not more than 3 years.

(2) If serious consequences have accrued because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

#### Failure To Discharge Duties in Carrying Out Mobilization

#### Article 236

(1) A member of the armed forces or official who in carrying out mobilization during a state of war or in a case of immediate danger of war fails at his duty in providing for reception, distribution and housing of mobilized personnel, vehicles and other equipment and livestock, or does not ensure supply to the mobilized personnel and livestock, or fails to perform some other duty related to mobilization, so that harmful consequences accrue or could have accrued,

shall be punished by imprisonment for at least 1 year and not more than 5 years.

(2) If serious consequences have accrued because of the offense mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or the death penalty.

(3) If the offense mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 3 years.

(4) If a consequence referred to in Paragraph (2) of this article has accrued because of the offense mentioned in Paragraph (3) of this article,

the offender shall be punished by imprisonment for at least 3 months and not more than 5 years.

#### Pronouncement of the Punishment of Confiscation of Property

##### Article 237

The punishment of confiscation of property may also be pronounced upon an offender for the crimes mentioned in Article 202, Article 203, Paragraphs (2) through (4), Article 206, Paragraphs (3) and (4), Article 241, Paragraphs (2) and (3), Article 215, Paragraph (2), Article 216, Article 217, Paragraphs (3) and (4), Article 223, Paragraphs (2) and (3), Article 224, Paragraph (2), and Articles 226 through 236 of this law.

#### Conditions for Pronouncement of a Disciplinary Punishment or Measure

##### Article 238

For crimes against the armed forces for which imprisonment for less than 3 years has been prescribed the sanction in the criminal code may be replaced in the case of a member of the armed forces by disciplinary punishment or measure as established by law if the offense was particularly slight and if the interests of the service so require.

#### Responsibility for a Crime Committed on Orders From a Superior

##### Article 239

A subordinate shall not be punished if he commits a crime on orders from his superior, provided such orders pertain to official duties, unless the orders were aimed at committing a war atrocity or some other serious crime or if it was obvious that a crime would be committed by executing the order.

#### Title Twenty-One. Crimes Against Air Traffic Safety

##### Hijacking of Aircraft

##### Article 240

(1) Whosoever by force or serious threat of the use of force takes control over an aircraft which is in flight,

shall be punished by imprisonment for at least 1 year.

(2) In a particularly aggravated case of the crime mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 5 years or imprisonment for 20 years.

## Threats to Air Traffic Safety

### Article 241

(1) Whosoever by placing or carrying explosives or other similar devices or substances on an aircraft, by carrying or damaging navigation equipment or by inflicting other damage on an aircraft, by giving false reports in connection with an aircraft's flight, by improper or erroneous control of the flight of an aircraft, by being remiss in duty or surveillance in connection with air traffic safety or who in some other manner jeopardizes air traffic safety,

shall be punished by imprisonment for at least 1 year and not more than 10 years.

(2) If the crime mentioned in Paragraph (1) of this article results in the death of one or more persons or causes the destruction of an aircraft,

the offender shall be punished by imprisonment for at least 5 years or imprisonment for 20 years.

(3) If an individual loss of life occurred with intent through the commission of the crime mentioned in Paragraph (1) of this article,

the offender shall be punished by imprisonment for at least 10 years or the death penalty.

(4) If the offense mentioned in Paragraph (1) of this article was committed out of negligence,

the offender shall be punished by imprisonment for not more than 3 years.

(5) If the offense mentioned in Paragraph (4) of this article resulted in the death of one or more persons or the destruction of an aircraft,

the offender shall be punished by imprisonment for at least 1 year and not more than 8 years.

### Destruction and Removal of Marks Used for Air Traffic Safety

### Article 242

Whosoever destroys, damages or removes a mark used for air traffic safety, shall be punished by imprisonment for not more than 3 years.

## Improper Use of Telecommunication Codes

### Article 243

Whoever maliciously or unnecessarily transmits the conventional international distress signal or danger signal or whosoever uses a telecommunication signal to make it appear that there is safety, or whosoever abuses a conventional international telecommunication signal or call,

shall be punished by imprisonment for at least 3 months and not more than 3 years.

## Title Twenty-Two. Crimes Against Other Social Values

### Failure to Abide by Health Regulations During an Epidemic

### Article 244

Whosoever during an epidemic of any dangerous contagious disease does not act in accordance with orders issued on the basis of federal regulations specifying measures to control or combat it,

shall be punished by imprisonment for not more than 1 year.

### Unauthorized Production and Sale of Narcotics

### Article 245

(1) Whosoever without authorization produces, processes, sells or offers for sale or who purchases, holds or carries for purpose of sale, or who acts as a go-between in sale or purchase, or who in some other manner without authorization places on sale substances or preparations which have been proclaimed narcotic or psychotropic substances,

shall be punished by imprisonment for at least 6 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article was committed by more than one person acting in confederacy to commit these crimes, or if the perpetrator of this crime has organized a network of sellers or agents, or if the crime involves a particularly dangerous drug or psychotropic substance,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) Narcotic and psychotropic substances and means of making them shall be confiscated.



## Abetting the Use of Narcotics

### Article 246

(1) Whosoever entices another to use a narcotic or psychotropic substance or gives him a narcotic or psychotropic substance for his own use or the use of another, or who makes available a place for the use of a narcotic or psychotropic substance, or who in some other manner makes it possible for another to use a narcotic or psychotropic substance,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article was committed with respect to a minor or a sizable number of people or involved a particularly dangerous narcotic or psychotropic substance, or caused particularly serious consequences,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

(3) The narcotic and psychotropic substances shall be confiscated.

## Failure To Abide by Regulations Issued To Control the Diseases of Animals and Plants

### Article 247

(1) Whosoever during an epidemic of a livestock disease which could threaten animal husbandry throughout the country does not abide by the order of the competent authority issued on the basis of a federal regulation defining measures to control or combat the disease,

shall be punished by imprisonment for not more than 1 year.

(2) The punishment mentioned in Paragraph (1) of this article shall also be pronounced on anyone who during the threat of a disease or pest which could threaten the plant kingdom throughout the country does not abide by a decision of the competent authority enacted on the basis of a federal regulation defining the measures to control or combat the disease or pest.

(3) If great damage has accrued because of an offense referred to in Paragraphs (1) and (2) of this article,

the offender shall be punished by imprisonment for not more than 3 years.

(4) If the offense referred to in Paragraphs (1) through (3) of this article was committed out of negligence,

the offender shall be punished by a fine or imprisonment for not more than 1 year.

#### Improper Shipment of Explosives or Inflammable Materials

##### Article 248

Whosoever contrary to federal regulations governing the shipment of explosives or inflammable materials delivers for shipment to a public carrier explosives or highly inflammable materials or himself carries such materials on a public carrier,

shall be punished by imprisonment for not more than 1 year.

#### Unlawful Crossing of the National Border

##### Article 249

(1) Whosoever crosses or attempts to cross the Yugoslav border without the prescribed permit in an organized group, armed or using violence,

shall be punished by imprisonment for not more than 1 year.

(2) Whosoever engages in unlawful infiltration of others across the Yugoslav border or who for gain makes it possible for another to unlawfully cross the border,

shall be punished by imprisonment for at least 6 months and not more than 5 years, and the punishment of confiscation of property may also be pronounced.

#### Violation of Patent

##### Article 250

(1) Whosoever in the conduct of business wrongfully uses someone else's invention which has been registered and protected,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) Whosoever discloses without authorization the essential aspects of someone else's registered invention before that invention has been made public in the manner established by law,

shall be punished by imprisonment for not more than 1 year.

## Pimping

### Article 251

(1) Whosoever recruits, prevails upon, urges or entraps female persons to engage in prostitution or whosoever in any other manner participates in making a female person available to another for purposes of prostitution,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) If the offense mentioned in Paragraph (1) of this article was committed toward a female person under age 18 or by force, threat or deception,

the offender shall be punished by imprisonment for at least 1 year and not more than 10 years.

## Production and Distribution of Pornographic Material

### Article 252

(1) Whosoever produces, sells, distributes, displays in public or for purposes of sale procures or keeps in his possession written material, pictures or other articles which seriously offend morality,

shall be punished by a fine or imprisonment for not more than 1 year.

(2) The articles mentioned in Paragraph (1) of this article shall be confiscated.

## Title Twenty-Three. Conspiracy and Confederacy to Commit Federal Crimes

### Conspiracy To Commit a Federal Crime

### Article 253

Whosoever enters into a conspiracy with another to commit a crime envisaged by a federal law for which a prison sentence lasting 5 years or more serious punishment may be pronounced, unless a more severe penalty has been envisaged for such conspiracy by federal law,

shall be punished by imprisonment for not more than 1 year.

### Confederacy to Commit a Federal Crime

### Article 254

(1) Whosoever organizes a group of persons to commit federal crimes for which a prison sentence of 5 years or more serious punishment may be

pronounced, unless a more serious punishment is envisaged for such organization by federal law,

shall be punished by imprisonment for at least 3 months and not more than 5 years.

(2) A member of a group as mentioned in Paragraph (1) of this article, shall be punished by imprisonment for not more than 1 year.

(3) A member of such a group who exposes the group before committing a crime as a member or on its behalf,

may be released from punishment.

#### Title Twenty-Four. Transitional and Final Provisions

##### Article 255

On the day when this law takes effect the punishment of strict imprisonment whose pronouncement has become valid and which has not been served and a punishment of strict imprisonment which has not become valid shall become punishment of imprisonment for the same periods of time.

##### Article 256

(1) On the day when this law takes effect the preventive measure of commitment to an institution for custody and treatment which has been pronounced shall become the preventive measure of mandatory psychiatric treatment and commitment in a medical institution, and the preventive measure of loss of driver's license shall become the preventive measure of suspension of driver's license.

(2) The court may replace mandatory psychiatric treatment and commitment in a medical institution by the preventive measure of mandatory psychiatric treatment at liberty if the legal conditions are fulfilled.

##### Article 257

If before the day when this law takes effect a juvenile measure has been pronounced against a minor which has not been envisaged in the law of the republic or autonomous province, the court which tried the minor in the first instance may replace the measure pronounced by another measure for which the legal conditions are fulfilled, but it may not be more severe than the measure pronounced in either type or duration.

##### Article 258

The punishment for crimes prescribed in separate laws are converted as follows:

1) the punishment of strict imprisonment becomes the punishment of imprisonment for the same period of time, and if its minimum duration was not indicated, imprisonment for 1 year shall be taken as the minimum,

2) the punishment of imprisonment for which the law has not indicated the maximum and minimum duration becomes the punishment of imprisonment whose maximum duration is 3 years and whose minimum duration is 15 days.

#### Article 259

(1) Legal consequences that have accrued on the basis of a federal law by virtue of a sentence to strict imprisonment for a specified period of time shall on the day when this law takes effect become the legal consequences resulting from a sentence to imprisonment pronounced for the same period of time.

(2) On the day when this law takes effect those legal consequences of a conviction defined by federal law and consisting of a prohibition on the acquisition of certain rights may not accrue or shall terminate--if the punishment pronounced was a fine as the primary punishment, a suspended sentence or judicial admonition, or if the offender was found guilty, but was released from punishment.

#### Article 260

Protective surveillance accompanying a suspended sentence may be pronounced only on a young adult for crimes committed before the day when this law takes effect.

#### Article 261

(1) Detention awaiting trial and other forms of custody related to a crime shall be credited against a fine on the basis of valid verdicts rendered before the day when this law takes effect in accordance with the provisions of this law.

(2) A fine shall be converted to imprisonment on the basis of valid verdicts rendered before the day when this law takes effect in accordance with the regulations which were in effect at the time when the verdict was rendered.

#### Article 262

The provisions of this law concerning the deletion of a conviction shall also be applied to convictions which have been validly rendered before the day when this law takes effect, but which have not been deleted under the prior statutes.

Article 263

(1) All statutes and regulations which contradict this law shall cease to be valid on the day when this law takes effect.

(2) As an exception to the provision of Paragraph (1) of this article, the provisions concerning old-age insurance which provides for loss of pensionable service because of participation in combat on the side of the occupiers between 6 February 1941 and 15 May 1945 or because of conviction to a sentence of strict imprisonment because of a crime against the people and the state committed in that period of time shall remain in effect.

Article 264

This law shall take effect on 1 July 1977.

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END